

Regulatory Reform in Ghana

From a Policy Transfer Perspective

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Master's thesis

Department of Political Science

University of Oslo

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Abstract

Ghana's oil discovery in 2007 heightened expectations for socio-economic development, but it also raised concerns. The "resource curse" refers to the seeming paradox that countries richly endowed with natural resources tend to suffer from weak economic growth and low levels of democracy (Rosser 2006). The political science literature and international policy discourse has taken an increased focus on the role of *institutions* in explaining and curbing the resource curse. Following Ghana's oil find, commentators focused on the urgency of strengthening institutional mechanisms and ensuring accountability in the petroleum sector. Good regulatory frameworks and regulatory institutions stood out as particularly important in this regard. Despite the importance of the issue, the resource curse literature lacks a focus on the conditions under which institutions are formed and changed. This thesis attempts to help fill this void by conducting a case study of processes and corresponding outcomes in an institutional reform. By employing qualitative data collected during my field work, I have studied regulatory reform processes in Ghana's petroleum sector, leading up to the establishment of the Petroleum Commission in 2011. The primary focus of the thesis is on analyzing (i) the Petroleum Commission's institutional independence, (ii) mechanisms keeping the Petroleum Commission accountable and (iii) the Petroleum Commission's role of holding operators in the petroleum industry accountable. Furthermore, by utilizing a conceptual "policy transfer" framework I analyze how domestic and external actors and structures have influenced the abovementioned outcomes. In particular, I study the influence of the World Bank and the Norwegian "Oil for Development" program. My findings indicate that the Petroleum Commission enjoys a high level of institutional independence, but also that subsequent legislation may allow for ministerial intervention in areas of the Commission's authority, thus reducing its independence. Domestic structures and political actors appear to have had a greater impact on the Commission's independence than external donors. The analysis concludes that there are good mechanisms in place to ensure the Commission's accountability towards relevant government institutions, and that the Commission plays an important role in holding the oil companies accountable. In this regard, the Oil for Development program provides a positive influence.

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List of Abbreviations

CSO	Civil Society Organization
GNPC	Ghana National Petroleum Company
HRM	Human Resources Management
IFI	International Financial Institution
IOC	International Oil Company
KAIPEC	Kofi Annan International Peacekeeping Training Centre
MNC	Multinational Corporation
MoE	Ministry of Energy
MoEP	Ministry of Energy and Petroleum
MoU	Memorandum of Understanding
NOC	National Oil Company
NPA	National Petroleum Authority
NPD	Norwegian Petroleum Directorate
NPP	New Patriotic Party
OfD	Oil for Development
PC	Petroleum Commission
PNDC	Provisional National Defense Council
PoD	Plan of Development
RQ	Research question

Map of Ghana



Source: CIA World Factbook

1 Introduction

There is an apparent consensus in the scholarly debate that “institutions matter” for development. Authors such as Douglas North (1990; 1992) and Acemoglu et. al (2001; 2005; 2013) share the perception that sound institutions are the key to countries’ socio-economic development. This view is also reflected in the literature on the so-called “resource curse”. The latter concept refers to the seeming paradox that countries richly endowed with natural resources tend to have low economic growth, authoritarian governments and low scores on development indicators. This empirical relationship is particularly strong for oil producing countries. According to Karl “most oil-exporting countries [...] suffer from economic deterioration and political decay” (1997, xv). Further, several academics agree that countries are not cursed by their resources, but rather by their *institutions* (Ross 1999; Mehlum, Moene, and Torvik 2006a; Stevens and Dietsche 2008; Kolstad, Wiig, and Williams 2009). Poor countries seem especially prone to the resource curse due to weak institutions associated with rent seeking and corruption (Rosser 2006). Sound institutions are thought to prevent negative effects of petroleum exploration partly because they can provide democratic accountability mechanisms.

The perception that institutions matter for development is also prevalent in the policy discourse and among aid practitioners. Previously, influential donors such as the World Bank and IMF demanded recipient countries to carry out *economic reforms* in exchange for financial aid. However, since the 1990s their aid disbursement conditions have become increasingly directed towards *institutional reform*. International financial institutions have departed from their purely economic liberalistic perspective on development, to focusing on aims of “good governance” (Stokke 2013a). This change is also reflected in aid policies of bilateral donors, including the Norwegian government (Stokke 2013b). In line with the good governance development trajectory, Norwegian aid policies are influenced by the view that sound institutions can curb negative effects of the resource curse. Petroleum related aid programs have come to constitute a significant share of the world’s development assistance (Kolstad, Wiig, and Williams 2009). The Norwegian aid program “Oil for development” is an important player in this field. The Norwegian Agency for Development Cooperation (Norad) states that “among the potential policy

responses to prevent natural resource revenues from becoming a curse for the economy, development of accountable institutions stands out as especially important” (Norad 2011a, 8). Norway is seen as a country that has avoided the resource curse partly due to sound political and economic institutions (Larsen 2004). OfD is aimed at transferring knowledge and expertise to developing countries, based on Norway’s historical experience with petroleum governance.

Despite the increasing awareness among scholars and practitioners on the importance of institutions, there is a lack of focus on how institutions are developed and the conditions under which they change. In the words of Achemoglu et. al (2005): “At some level it is obvious that institutions matter”. But what is meant by *sound* institutions and what do they matter for? Schelder (1999a) directed an early critique at the study of institutions. He claims that the “new institutionalism” in political science has given rich accounts of the consequences and effects of institutional arrangements. However, “by comparison, they have apparently neglected the study of institutional creation and change” (Schedler 1999a, 336). A decade later, Steven and Dietsche pose a similar critique with reference to the resource curse literature. They argue that the current emphasis on “institutions” as a potential solution to the resource curse, has largely ignored the conditions under which institutions are formed and changed (Stevens and Dietsche 2008). While the effects of institutions on factors such as economic growth are thoroughly studied (Douglass C. North 1989; Rodrik 2008), the issue of institutional change appears to be a highly important, but underexplored, field.

Acknowledging the salience of “institutions” among academics and practitioners, as well as the above criticism, this thesis aims to shed light on institutional *creation* and *development*. The thesis explores processes and corresponding outcomes in a developing country’s institutional reform. More specifically the study focuses on institutional reform in the petroleum sector, as the importance of institutions seems particularly prevalent in this policy area. I conduct a qualitative case study of a *regulatory reform* in Ghana’s petroleum sector, namely the establishment of the Ghanaian Petroleum Commission.

Before proceeding, it should be made clear what is meant by institutions in the first place. An informed debate deserves a return to Douglas North’s classic distinction

between institutions and organizations. North claims that “Institutions are the rules of the game in society or, more formally, are the humanly devised constraints that shape human interaction” (Douglas C. North 1990, 3). Institutions are formal (or informal) laws and regulations. Organizations are the “players of the game”. North explicitly mentions regulatory agencies as examples of organizations (ibid, 5). The Petroleum Commission can thus be seen as an organization, while the laws and regulations it is supposed to enforce are considered “institutions”. Al-Kasim et al. (2008, 8) claim that “[Regulatory frameworks] sets the scene for the industry’s activities.” The very institution of “regulation” determines opportunities for the sector to function efficiently, and whether it will be beneficial for society at large (ibid., 8). This thesis will pay attention to both the institutional and organizational features of Ghana’s regulatory reform, by looking at the organizational structure as well as the impact of relevant laws and regulations. The terms organization and institution are however used somewhat interchangeably, in line with colloquial usage of the terms.

There are a number of possible entries to the study of institutions or organizations. As I will return to when presenting the research questions below, I have chosen to look at two central aspects of the organizational structure: independence and accountability. The thesis also aims to explore processes influencing these outcomes of reform. How is the reform affected by actors and processes internal and external to the domestic political system? More specifically, how might *donors* affect institutional reform which is highly contingent on domestic political processes? I argue it is vital to include the role of external actors in the analysis, given the prominence of aid directed towards petroleum governance. In particular, the Norwegian government is providing assistance to the Ghanaian government to build up their Petroleum Commission through the Oil for Development program. This is a clear example of Oil for Development’s efforts to build up accountable institutions in recipient countries. To theoretically capture both endogenous and exogenous influences on reform, I utilize the “policy transfer framework” developed by Dolowitz and March (2000). The framework is suited to the empirical case at hand since it offers concepts to analyze the role of both domestic and external actors as well as incorporating the possible influence of donor conditionality¹ on reform. Also, the

¹ The concept “aid conditionality” is defined as discussed in chapter 2.

framework captures how the transfer of institutional practices from one political context to another may influence outcomes of institutional reform. This is important to include given Oil for Development's attempt to transfer aspects of the Norwegian experience of petroleum governance to Ghana.

It should be noted that the explanatory and evaluative ambitions of the thesis are somewhat modest and the reader should not mistake the study for a full-fledged evaluation. As stated, I investigate only two outcomes of the institutional reform in addition to exploring actors and processes influencing these outcomes. However, I do not aim to detect causal explanations on the outcomes of reform. The policy transfer framework's value is first and foremost heuristic; it offers a conceptual toolkit to investigate how exogenous and endogenous actors and structures affect the genesis and development of institutional reform. A comprehensive evaluation might for example be aimed at measuring precise effects of the Norwegian development cooperation. This would require more sophisticated data, and is beyond the scope of this study. That being said, the possible entries to the study of institutional reform are many. In the following I argue why it is relevant to study the aspects of institutional independence and accountability.

1.1 Research questions

The preceding section established the two main aims of this thesis: Firstly it will investigate outcomes of the Ghanaian regulatory reform related to qualities of "institutional independence" and "accountability". Secondly, the thesis explores how endogenous and exogenous processes and actors influence these two outcomes. The two overarching aims are reflected in four research questions formulated below.

For a regulator to be able to perform its task effectively, a certain degree of *independence* from government is required (Basilio 2006, 162). As mentioned, effective regulation is important for preventing the resource curse and detrimental for making the extractive resource beneficial for society at large (Al-Kasim, Søreide, and Williams 2008). However, Minogue and Cariño (2006) show that there might be reasons to expect impediments towards institutional independence when pursuing regulatory reforms in developing countries. A central target in the Oil for Development program is that "relevant [cooperating] institutions are able to implement and enforce [...] policy and legal frameworks." Based on the above, the

fulfilment of this target presupposes some degree of institutional independence.² In sum these arguments imply that the Petroleum Commission's institutional independence is important for it to fulfil its mandate. I therefore investigate the following research question:

Research question 1 (RQ 1): To what extent does the Ghanaian Petroleum Commission enjoy institutional independence?

Furthermore, “accountability” is frequently put forth as the main remedy against the resource curse from an institutional perspective (see for example Mehlum, Moene, and Torvik 2006b). What is meant by accountability is hardly obvious, and clarity in this matter will be sought in chapter 3. Heller and Heuty argue that an oil sector regulator often “operates as a fiefdom that overflows its ill-defined role and occupies a more and more powerful role in sector management with little accountability” (2010, 54). Accountability has become a fashionable, widely used term in the policy and academic discourses alike, frequently associated with a good governance development agenda. This is reflected in the Oil for Development program as well, with its marked focus on supporting the development of accountable institutions in recipient countries. Given the salience of this concept, the second research question addresses the accountability of the Petroleum Commission:

Research question 2 (RQ 2): To what extent is the Ghanaian Petroleum Commission held accountable?

The accountability of the Petroleum Commission as a sector regulator is *one* important quality. Nonetheless, keeping the *oil companies* accountable to the population is of equal or perhaps increased importance (Heller and Heuty 2010, 51). A regulator's prime purpose is precisely to keep industry accountable for their activities to avoid laissez-faire conditions. Recalling Douglas North's distinction, we should ask whether the Petroleum Commission actually does constrain the activities of “the players of the game” (the industry) through enforcing laws and regulations?

Research question 3 (RQ 3): To what extent does the Ghanaian Petroleum Commission keep operators in the petroleum industry accountable?

² Fulfilment of this target will arguably depend on a range of other institutional features, but the scope of the thesis necessitates some limitation.

Again, the thesis has an explanatory section in addition to the evaluative part. With respect to the latter, I present and test some theoretically motivated expectations about what might explain any significant impediments towards independence and accountability (cf. RQs 1-3). In this regard it is relevant to consider the fact that the reform process is partly influenced by “policy transfer” from an external context. As mentioned, I therefore make use of the “policy transfer framework” developed by Dolowitz and Marsh (1996; 2000) to identify variables and mechanisms that can explain the reform process. I discuss three transfer variables, namely: Is the transfer process voluntary or coerced? Who are the key actors involved in the policy transfer process? From where are lessons drawn? Based on this, my fourth and final research question is:

Research question 4 (RQ 4): To what extent does the policy transfer framework explain outcomes in the establishment of the Ghanaian Petroleum Commission?

1.2 Methodology

To gain insight into the petroleum regulatory reform processes in Ghana I have chosen a case study approach, in which I have utilized two main methods: semi-structured interviews and document studies. A large share of the empirical data was collected during five weeks of fieldwork in Ghana, January-February 2014. Prior to this I conducted background interviews with officials from Norad, and resource curse experts at Christian Michelsen Institute, to seek empirical and theoretical insight respectively. In Ghana I conducted 15 interviews with respondents from relevant public administration and civil society organizations, donors and scholars. In addition to providing valuable information on matters related to my research questions, respondents gave me otherwise not available written reports concerning the reform processes. Further, a comprehensive document study was carried out in the archives at the Royal Norwegian Embassy in Accra. Other documents studied include relevant laws and regulations, evaluations, official reports and a vast academic literature on the topic. The case study approach has proved fruitful, as my aim has not been to make large-scale generalizations but to investigate one empirical case in depth. Nevertheless, such an approach has certain caveats when it comes to scientific validity and reliability. I return to these issues in chapter 4 where the thesis’ methodology is elaborated in more detail.

1.3 Outline of thesis

The broader themes that motivate this thesis are discussed in chapter 2, to provide the reader with necessary background information on the topic. Here I further elaborate on the movement towards aims of good governance and institution building in aid policy and development discourse. I also describe Norway's role as bilateral donor and its Oil for Development program in particular. Moreover, I review theories of the resource curse and discuss how regulatory reforms may contribute to curbing this curse. Chapter 3 gives a thorough operationalization of the key concepts of the thesis: institutional independence and accountability. This exercise allows the abstract research questions to be assessed empirically. The policy transfer framework is also presented in chapter 3. As mentioned, will I discuss the thesis' methodology in chapter 4. Chapters 5 and 6 present the empirical information that came forth in the interviews and document studies. Chapter 7 draws on all the preceding chapters to offer an analysis aimed at answering the four research questions formulated in the introduction. In chapter 8 I summarize the overall findings of the study and propose suggestions for further research on the topic.

2 Background

The regulatory reform in Ghana's petroleum sector has been taking place with a marked influence of external donors. The Norwegian Oil for Development program and the World Bank are two significant actors in this respect. It has been argued that while the 1980s were marked by a neo-liberal development paradigm aimed at economic policy reform, we have since the 1990s been facing a development agenda dominated by goals of "good governance" and administrative reform. This chapter places the relationship between development assistance and institutional reform into a broader historical context.

2.1 Two generations of aid conditionality and policy reform

Marcel Mauss asserted, early on in his seminal work *The Gift* (1954), that there is no such thing as a free gift. What ultimately differentiates the gift exchange from the commodity exchange is that the gift creates more stable and lasting relations between the giver and the recipient. In a more or less explicit way, the receiver will be indebted to the giver. Gifts in the form of developmental assistance share a lot of the same qualities as "regular" gifts (Nustad 2003). The concept of "aid conditionality" refers to donors' practice of making official development assistance conditional on political and economic reform in recipient countries (Stokke 2013a, 1). Aid conditionality is hardly a new phenomenon. However, a marked difference in its usage appeared as donors became more explicit in giving specific, reform-oriented conditions on disbursements of aid since the late 1970s (Stokke 2013b, 162). Collier (1997) distinguishes between five objectives of conditionality: *Selectivity* entails that aid is conditional on maintenance of a good policy environment in the recipient country.³ *Paternalism* implies that aid is conditional on being spent on particular activities. The recipient government may wish to use conditionality as *restraint*, to avoid domestic political pressures pushing for policy reversal. A recipient country may commit to donor conditionalities for the purpose of *signaling* to investors that donors have given approval to the future policies of the country. Finally, conditionality is most often used as *inducement*, which means that donors offer

³ This is also called "ex post conditionality", where future aid disbursement are contingent on past performance (Stokke 2013b, 163).

support if the recipient authorities agree to introduce a set of policies (Collier 1997).⁴ Critics argue that aid conditionality seldom has achieved objectives of policy change. Because the recipient countries do not own policies, programs induced by conditionalities are not sufficiently implemented (Johnson 2005).

Stokke (2013a, 7) differentiates between two generations of aid conditionality. The first generation began in the late 1970s. It was largely influenced by a prevailing faith in laissez-faire economics, and marked by the international financial institutions' (IFIs) efforts to promote economic liberalization in developing countries. This happened in conjunction with the severe economic crises that several developing countries were experiencing around this time. Governments turned to the IFIs, primarily the World Bank and the International Monetary Fund (IMF), for financial support. Initially, IFIs dispersed cheap loans widely to alleviate the crisis. As the crisis worsened and global financial sources started drying up, IFIs established conditions for new loans or lower interest rates. Aid was made conditional on the implementation of economic policy reform, aimed at liberalizing domestic economies through Structural Adjustment Programs (SAPs). Donors would now enter the political arena of the recipient government at higher levels than had previously been the case. By the early 1980s virtually every African country received large amounts of aid conditional on economic reform (Devarajan, Dollar, and Holmgren 2001). And “with few other sources of finance, individual debt-ridden Third World countries had little choice but to accept the conditions” (Stokke 2013a, 9).

The policy reforms promoted by the IFIs came to be known as “The Washington Consensus”, a term coined by John Williamson who summarized ten common principles in the reforms that were promoted towards developing countries in the 1970s and 1980s.⁵ The reform principles were: Fiscal discipline (reduction of budget deficits), investment rather than consumption in public expenditure, tax reform, financial liberalization, unified exchange rates (currency devaluation), trade liberalization, removing barriers on foreign direct investment, privatization of state enterprises, deregulation of competitive markets and securement of private property

⁴ This is also called “ex ante conditionality”, where recipient governments have to commit to improvement in certain policy areas to obtain aid (Stokke 2013b, 163).

⁵ Williamson focused on reforms in Latin-American countries, yet analysts have shown that they apply to other developing countries as well.

rights (Williamson 2005, 35–43; Walle 2001, 138–139). The salience of different reform elements varied greatly between African countries, and so did the success of the reforms implemented. It is not possible to give justice to the comprehensive debate concerning the effects and virtue of the SAPs. Though, Van de Walle (2001) and several analysts with him argue that the structural adjustment process further undermined state institutions and their capacity in African countries. Regardless, the illustration shows the immense power external actors possess in influencing domestic policy reform. The Washington consensus has by many been termed a paradigm (see for example Gore 2000). Rodrik commented that “What is remarkable about the current fashions in economic development policy [...] is the extent of convergence that had developed on the broad outlines of what constitutes an appropriate economic strategy. [...] Faith in the desirability and efficacy of these policies unites the vast majority of professional economists in the developed world who are concerned with issues of development” (Rodrik 1996, 9).⁶ To the extent that we saw a development paradigm in the 1980s, this was replaced by a new unitization of development thought emerging by the end of the Cold War.⁷

By the late 1980s a new emphasis was placed on “good governance” by the leading western powers and the IFIs (Stokke 2013b, 164). The emergence of the good governance agenda coincides with what Stokke calls the second generation of conditionality (Stokke 2013a, 9; Stokke 2013b, 162). While efforts in the first generation of conditionality were directed towards economic policy reform, donors were now increasingly making development assistance conditional on political and administrative reform. This seeming new paradigm within the development discourse has by some been described as a “post-Washington consensus” (Santiso 2001, 14). There was a realization among the IFIs that the SAPs had not delivered as expected. Previous development efforts had failed due to a lack of focus on governance issues.

⁶ Also cited in Van de Walle (2001, 138)

⁷ *Paradigm* is a catchword that should be used with caution. For Thomas Kuhn a scientific paradigm is “universally recognized scientific achievements that, for a time, provide model problems and solutions for a community of practitioners” (Kuhn 1962). Kuhn’s term paradigm has been widely used in the social sciences, referring to policies and political lines of thought rather than scientific principles (see for example Hood 1995; Gow and Dufour 2000).

Economic policy reform had to be accompanied by reform of political and administrative systems (Stokke 2013a, 9).

The term good governance was first used by the World Bank in 1989. There are multiple understandings of the concept of good governance (Santiso 2001, 4). The good governance development agenda is therefore broad, with a range of policy proposals and implications. It includes democratization (in a wide sense), as well as institutional and bureaucratic efficiency and accountability (Abrahamsen 2000a, x). Recipients would have to commit to improvements on these arenas to obtain aid. Abrahamsen (2000b) points critique at the good governance agenda of the West for only involving superficial institutional reforms in developing countries.

2.2 Norway in the donor society

In the post war years Norway was a recipient of aid through the Marshall Plan. Norway started to provide development assistance itself in 1952 (Leira et al. 2007, 18). Until the mid-1970s, Norwegian (and Nordic) aid was mainly dispersed multilaterally through international organizations such as the United Nations (UN) and the World Bank. However, aid gradually became more bilaterally oriented. The Norwegian Agency for Development Cooperation (Norad) is the main implementing agency for development policies. Since the 1970s, Norwegian aid policy has to a large extent included elements of the good governance agenda described above. Institution building and competence building in public management were early features of Norwegian aid objectives and implementation practices. The stated motives for Norwegian aid policy have been altruistic and based on solidarity and a moral obligation to help the social and economic development of countries in the global South. Norway formulated its first principles for development assistance through their aid policy White Paper of 1962. It stated that aid should be provided on a general humanitarian basis and was not to be based on political and economic particularistic interests (Mushi 2013, 229). Aid should be recipient oriented and used for utilitarian motivation, not for interference in the policy of recipients. Stokke calls this stance contradictory. The norm of non-interference at the policy level contradicts conditionality and it complicates the achievement of the objectives set by the donor (Stokke 2013b, 166). The ability to achieve aims of social justice by adherence to

principles of non-interference “in a world of neo-patrimonial⁸ states [run] by self-seeking elites”, is a seeming paradox (Stokke 2013b, 168).

The changing climate of international aid policy, from the first to the second generation of conditionality, especially in the World Bank, influenced the formulation of Norwegian aid policy. At the beginning of the 1990s, the non-interference principle was weakened (Stokke 2013b, 194). While the recipient orientation continued to be strong, coercive aid conditionality became more explicit. Norad communicated to its aid recipients that a failure to deliver results could lead to a closure of the aid relationship (Stokke 2013b, 195). The main focus of Norwegian aid policy has however been directed towards positive conditionality, by increasing aid to recipient countries based on good performance (Stokke 2013b, 164).

The Norwegian government has traditionally emphasized that a precondition for effective aid is that the recipient country must fully share the aims of the cooperation (Stokke 2013b, 186–7). From the 1990s, Norad has focused on the use of “jointly agreed and binding development contracts”⁹, a legally binding contract, in which the process leading toward the contract is perceived to matter as much as the contract itself (Stokke 2013b, 186). The contract should be based on a joint perception of mutual benefits between the respective parties. The donor commits itself to a long-term cooperation with the recipient country, in exchange for commitments to for example economic or political reforms on behalf of the recipient (Stokke 2013b, 187).

In addition to being a large donor country relative to its size, Norway has been heavily involved in peacebuilding processes. Well-known examples are the Oslo Peace Accords and the Sri Lankan peace negotiations. These factors contributed to shaping an image of Norway as a “goodness regime” (Tvedt 2005). The “Nordic model” has been presented as an honourable exception from common practice in international politics. This has contributed to an identity shaping at home, but also to presenting an image of a model that can be copied by other countries (Leira et al. 2007, 10). The latter applies in particular to Norway’s image as a successful petroleum nation.

⁸ The concept “neo-patrimonialism” is defined and discussed in chapter 3.

⁹ A concept introduced by Thorvald Stoltenberg in 1989; then Norway’s Minister of Foreign Affairs.

2.3 The Oil for Development program

Norway has achieved a high level of economic growth and welfare distribution despite its oil wealth (cf. the paradoxical nature of the resource curse, defined in chapter 1 and further discussed below). Through the Oil for Development Program (OfD), Norway strives to share their experiences in petroleum management developed over 40 years, with oil producing developing countries. The aspect of the Norwegian oil experience of key importance to this study is Norway's separation of three functions related to the governance of the petroleum sector: Policy-making, commercial operation and the regulation of industry. Responsibility for policy making rested with the Ministry of Energy and Petroleum. The commercial functions of exploration and production were placed with the national oil company, Statoil. Lastly, The Norwegian Petroleum Directorate (NPD) was established in 1972 to serve as an independent regulator of the industry. In response to its oil discovery, Ghana has sought the same tri-partite division of institutions. The implementation of a body similar to NPD in Ghana is the empirical focal point of this thesis.

Norway has provided assistance in petroleum management to developing countries since the early 1980s. One of the respondents I interviewed at the Ghanaian Petroleum Commission had visited Norway in 1983, as part of a training program in petroleum management.¹⁰ The OfD initiative was launched in 2005, and formally established in 2007, to consolidate Norwegian petroleum based development assistance (Norad 2007, 4). This decision was aimed at ensuring a more holistic approach in Norway's petroleum aid. While assistance previously was limited to resource management, it would now include environmental and financial management as well. OfD assistance is divided into three "pillars" covering these three areas.

OfD is Norway's most frequently demanded aid program internationally (Norwegian Ministry of Foreign Affairs 2013, 56). In 2013, OfD provided assistance to 18 countries.¹¹ Norad emphasizes that all cooperation through OfD shall be demand driven (Norad 2007, 5) and "tailor-made to domestic conditions and demands" (Norad 2011a, 11). OfD has been referred to as "the flagship program" of Norway's

¹⁰ Interview, PC official 1. He received the training in the capacity of being an official of Ghana National Petroleum Corporation (GNPC).

¹¹ <http://www.norad.no/no/tema/%C3%B8konomisk-utvikling-og-offentlig-forvaltning/olje-for-utvikling/olje-for-utvikling>

development cooperation, as it addresses a strategic sector at high policy levels. OfD allows Norway to play a more visible role in several countries and contributes to the development of international networks of partners (Scanteam 2013, xvii). OfD is a clear example of the focus on good governance in Norwegian development assistance. OfD's objectives were briefly discussed in chapter 1, and deserve a brief elaboration here. OfD defines as their primary goal to ensure "Economically, environmentally and socially responsible management of petroleum resources which safeguards the needs of future generations" (Norad 2011a, 8). In addition, they state that "Principles of good governance such as transparency, accountability, anti-corruption and gender equality are cross-cutting in all assistance provided" (Norad 2012). These main goals are further specified through three targets. The first target is to "develop sound policy and legal frameworks". The second target is that "relevant institutions are able to implement and enforce the policy and legal frameworks" (Norad 2011a, 8). The third target in the OfD program is that "relevant institutions are held *accountable* to the citizens of the country" (Norad 2011a, 8, my emphasis). The research questions formulated in chapter 1 were partly motivated by OfD's marked focus on good governance and accountability. More specifically it was argued that target two presupposes some degree of institutional independence on behalf on a regulatory agency (cf. RQ 1), while target three is reflected in RQ 2 concerning the accountability of the Ghanaian Petroleum Commission.

The means to achieve OfD's targets is competence building and institutional development of government bodies, through so-called "technical assistance" (Norad 2011a, 9). Technical assistance refers to contributions to development through education and training.¹² OfD is headed by a ministerial steering committee, representing the four ministries providing assistance through OfD: The Ministry of Foreign Affairs, Finance, Petroleum and Energy and Environment. The steering committee formulates strategic direction and guidelines, while the OfD secretariat is responsible for coordination and implementation of the initiative. The secretariat is placed within Norad (Norad 2007, 5). OfD funds are distributed through the Norwegian partner institutions, as well as international consultancy companies, the World Bank and the IMF (Norad 2011a, 18). Norwegian partner institutions include

¹² <http://www.oecd.org/site/dacsmpd11/glossary.htm>

the four ministries mentioned above, as well as subordinate Norwegian governmental directorates and agencies. A large share of the OfD assistance is organized through institutional cooperation programs between relevant institutions in Norway and the recipient country. Petrad¹³ is also an important partner, providing training courses in Norway. In the context of this thesis, the relevant Norwegian institutions are the Ministry of Petroleum and Energy and The Norwegian Petroleum Directorate. The nature of their cooperation with Ghanaian counterparts will be further described in chapter 6. As made clear, OfD's main focus is to prevent natural resources becoming a curse for the economy, through among other means establishing accountable institutions. To better understand the rationale behind this policy, I briefly describe theoretical perspectives on the resource curse and how they relate to institutions.

2.4 The resource curse and institutions

Large deposits of natural resources have become associated with weak economic growth, low levels of democracy and even the outbreak of civil war (Rosser 2006). The developments in Angola, Nigeria, Algeria and Sudan provide examples of this (Karl 1997). Sachs and Warner were the first to coin the term *resource curse*, which refers to the negative effects on economic growth (Sachs and Warner 1995). The economic rent, or windfall profit, that stems from large natural resources is commonly perceived to be dangerous (Ryggvik 2013, 5). In addition to precious stones, metals and minerals, petroleum is the resource most commonly associated with the resource curse. According to Amundsen (2013), three different, but interrelated, perspectives are prominent in explaining the resource curse: Economic, political science and political economy perspectives.

A prominent explanation within the economic perspective is that growth declines because the increase in revenues from natural resources leads to exchange rate re-evaluations. This will make domestic manufacturing and agricultural sectors less competitive on the international market which leads to a crowding out of such sectors (Sachs and Stiglitz 2007). This might lead to de-industrialization, unemployment and deflation and thus weak or negative growth. This is referred to as the so-called “Dutch Disease” model (Di John 2008). The model's name draws inspiration from the effects

¹³ Petrad is a Norwegian foundation set up to support capacity development in the petroleum sector (Scanteam, 105).

felt on the Dutch economy after the discovery of natural gas in the North Sea in 1959. The Dutch currency appreciated which made domestic exports more expensive relative to imports. As a result the manufacturing sector became significantly less productive and de-industrialization and economic downturn occurred (Corden 1984).

Explanations from the field of political economy tend to focus on the “rentier-state” model, often based on theories of rent-seeking and corruption (Di John 2008). In an oil rich state, the windfall profit can reduce the government’s need to tax the population. This may increase the autonomy and powers of the state, by the reverse logic of “no taxation without representation”. In the rentier-state, popular pressures for accountability and democratization are reduced. This can include direct opposition or prevention of the formation of social groups independent of the state (Kolstad, Søreide, and Williams 2008).

In the political science literature there is an increasing focus on the role of institutions in explaining the resource curse. Natural resources don’t necessarily lead to negative socio-economic development. There are several examples of countries that are considered “resource blessed”, including Norway, Chile, Brazil and Australia. Mehlum et. al (2006b) have tested the relationship between economic growth and natural resources. They claim that *institutional* differences between resource rich countries is an important explanation for different outcomes in growth (Mehlum, Moene, and Torvik 2006b). Whether the resource rents are spent on stimulating the productive economy and national development, or is geared towards elite consumption and capital flight, is in essence a question of institutional quality (Mehlum, Moene, and Torvik 2006a). According to Amundsen (2014, 2) there are essentially two theoretical positions on the relationship between resource abundance, institutions and development. One position claims that government institutions that are weak (or lacking) will affect the economy in a negative way. The negative effects will be enhanced in the event of an oil boom since high rents become appropriable by the ruling elite (Amundsen 2014). The other position is focused on the negative effects a sudden boost of government income might have on governmental institutions themselves. Resource wealth might create forces that hinder the development of “good” political institutions. It can also lead to institutional decay, if politicians obstruct or dismantle political institutions to reap the benefits of the rents. Democratic

institutionalization is thus important with respect to the resource curse. The risk of being cursed by petroleum resources seems higher if the discovery of the resource is made before democratic institutions are established and consolidated. In the case of Ghana, Heller and Heuty warns that: “Now that the oil from Jubilee has begun to flow, the task of building accountable institutions, rules and procedures gets more difficult with each passing day that legislation is not enacted.” (2010). Countries without institutions that promote accountability and state competence will suffer from a resource curse, as such institutions ameliorate the perverse political incentives of oil booms (Robinson, Torvik, and Verdier 2006). In line with this perspective, Amundsen (2013a) argues that the institutionalization of special agencies of restraint and control is one important solution for avoiding the resource curse. Independent regulatory agencies are common in the petroleum sector and considered as part of a best practice model of petroleum governance (Banful 2010). Regulation is seen as important in petroleum governance to ensure that the resource rent¹⁴ benefits the citizens of the oil nation, rather than profit seeking companies or political elites. Below follows a review of what is meant by regulation and regulatory agencies.

2.5 Regulatory reform

Political regulation stands as an alternative to leaving the operation of an industry or sector solely to market mechanisms (Baldwin 2012, 56). Regulation has been defined as “the intentional use of authority to affect behavior of a different party according to set standards, involving instruments of information-gathering and behavior modification” (Baldwin, Cave, and Lodge 2012, 12). Over the past three decades, several services that were previously supplied by the state¹⁵ have been shifted to private ownership and provision. As a consequence, the private sector requires some regulation to ensure that it functions in the interest of the wider public (Aryeetey 2004, 295). This has led to enhanced state regulation of private industry, by some referred to as the rise of the “regulatory state” (Majone 1997). Regulation may be aimed at securing market competition, product quality, health and safety of work environments, among other qualities (Cook et al. 2004, 3). Regulation is particularly important in the petroleum sector. Regulation determines opportunities for the sector

¹⁴ The term *rent* referring to the definition posed by David Ricardo. It is synonymous with oil rent, ground rent or economic rent.

¹⁵ Such as telecommunications, water and electricity.

to function effectively, and whether it will benefit society at large. The well-functioning of an oil industry depends on a good regulatory framework as well as the capacity of regulatory institutions (Al-Kasim, Søreide, and Williams 2008, 8).

Regulatory functions can in principle be placed within, or insulated from, the central government. Placing regulatory activity within the central government has advantages, as it enables coordination between regulation and other government policies. However, when regulatory authority is centralized in a ministry, political alteration may affect regulatory policies (Levi-Faur 2011, 206). It is commonly argued that regulatory activities should be independent from central government, to avoid political bias and short term horizons of ministers; there is a perception that some things are best left out of politics. This creates an incentive to limit the ministerial authority over certain parts of public administration (Christensen 2006, 114). A common approach is therefore to place regulatory responsibility within independent agencies. As guardians of the public interest, regulators should in principle have both technical capacity and independence (Minogue and Cariño 2006, 9). As argued in the preceding chapter, it is therefore important to analyze the institutional independence of the Petroleum Commission. The establishment of the Petroleum Commission in Ghana is an example of OfDs efforts to develop accountable institutions “to prevent natural resource revenues from becoming a curse for the economy” (Norad 2011a, 8). While the Norwegian regulatory authority is named a directorate and the Ghanaian regulatory authority is named a commission, they both fall into the category of regulatory agencies (Pollit et al. 2001).

A public (regulatory) agency can take many shapes but is generally an administrative body which enjoys relative independence from the executive branch of government, while still being part of the executive portfolio. It is an organization vertically specialized outside ministerial departments, staffed by public servants, carrying out public tasks at the national level, often with a more or less single purpose (Egeberg and Trondal 2009).¹⁶ Regulatory agencies are used in several sectors, for example the utilities, telecommunications and infrastructural sectors.

¹⁶ In addition to regulation, agencies may be responsible for managerial tasks, policy advice or service provision (Christensen, Lie, and Lægreid 2008).

There was a rise in the establishment of regulatory agencies around the world from the 1960s-1970s and onwards. This has been associated with a process of so-called “agencification”.¹⁷ The creation of quasi-autonomous public bodies has been a prominent organizational trend in OECD countries during the so-called New Public Management era (Verhoest et al. 2010). However, agencification and de-agencification has been an enduring theme in public administration and is not something entirely novel (Egeberg and Trondal 2009). The independent regulatory agency is an old organizational form. An early known example is the US Inter-State Commerce Commission from 1887 whose function was to regulate the pricing of railroads. The apparent acceleration in the creation of (regulatory) agencies is often perceived to be connected with OECD’s ability to influence member countries through recommendations. OECD is often considered to be an important agent of “policy transfer” (for example in Stone 2004). Similarly, in Ghana, increased regulation has occurred partly as a consequence of demands made by donors (Aryeetey 2004, 295).

There are disagreements as to whether the organizational form of independent regulatory agencies ensures accountability in decisions or if it weakens the parliamentary chain of control. Baldwin suggests that accountability is limited in this model (Baldwin 2012). Autonomy produces a loss of public accountability and political control (Verhoest et al. 2004, 2). I will return to the relationship between independence and accountability in the next chapter.

¹⁷ By some scholars termed “autonomisation” (Verhoest et al. 2004, 1)

3 Theoretical Framework

Research question 1 address to what extent the Ghanaian Petroleum Commission enjoys institutional independence. While research question 2 asks to what extent the accountability of the Commission is ensured, research question 3 concerns whether the Commission ensures accountability of the operators in the upstream petroleum industry. The evaluative part of the analysis necessitates operationalization of the key concepts *institutional independence* and *accountability*. This will be an important focus of this chapter. Likewise, the explanatory part of the analysis (cf. RQ 4) necessitates identifying variables hypothesized to influence the outcomes of interest. This will be the focus of section 3.4, where an explanatory framework based on the policy transfer literature is developed.

3.1 Institutional independence

There is broad consensus in the literature on regulation that a regulatory agency cannot have absolute independence, since political executives eventually have the final political responsibility for the agency's activities (Christensen and Lægreid 2006, 12). But also, that a regulatory agency needs some degree of independence from superior bodies in government (cf. section 2.5). The agency should be formally separated from and managed at arms-length by its ministry (Pollitt 2009). In reality regulatory agencies have varying degrees of independence in policy decision-making, personnel matters, financial and managerial matters (Levi-Faur 2011). Organizations are commonly considered to be open systems that will never be fully independent nor dependent on their environment (Kickert 1993). Therefore, the independence of an organization will always be relative and should be considered to be positioned in a continuum between two extremes of full dependence and full independence (Levi-Faur 2011). Different countries have varying traditions for degrees of regulatory independence. John Stern makes a classification of utility regulators, where he argues that the US model is "the epitome of independent regulation", closely followed by the UK model. Least autonomous are the regulatory agencies in the post-Communist central and eastern European countries (Stern 2001, 103). The independence of a regulatory agency means relative insulation from both industry and political pressures

(Minogue and Cariño 2008). Independence from the regulated industry is important to avoid regulatory capture (Bó 2006).¹⁸

In the petroleum industry, the presence of an independent regulator is seen as important in order to avoid conflicts between commercial, political and regulatory interests (Oxfam America 2009). Amundsen (2013) claims that countries become cursed from oil when their institutions are not strong enough to withstand pressures from certain group's access to the wealth. Regulatory independence stands out as particularly important in this respect. An operational concept of institutional independence is necessary to empirically assess its prevalence with regard to the Petroleum Commission.

Operationalization of institutional independence

There is no consensus on how to operationalize institutional or regulatory independence (Levi-Faur 2011, 202) and the concept is used differently in various studies about regulatory agencies (Verhoest et al. 2010, 18). The first academic works on formal regulatory independence were focused on Central Banks. Gilardi and others drew inspiration from these works to develop measures of the formal independence of regulatory agencies in general. The operationalization below (see table 3.1) is inspired by Gilardi's operationalization, but is somewhat simplified in accordance with similar studies on institutional independence (see for example Sezen 2007; Amundsen 2013b). I will focus on the dimensions of legal, financial and human resources (HR) management independence, as well as procedures for the nomination of leaders and commissioners.

Firstly, it is important to consider whether there are judicial rules for the agency's independence from other institutions. This concerns the category of *legal independence*. Ensuring legal independence involves creating a separate legal entity with a restriction on ministerial responsibility for agency matters. Where agencies do not have a legal personality, the decision-making powers delegated to them can be taken back by government rather quickly as a parliamentary vote is not necessary (Verhoest et al. 2004, 106). The agency should have a status and mandate guaranteed

¹⁸ Due to the scope of this thesis I will not discuss and analyze the Petroleum Commission with regard to regulatory capture, though this would make for an interesting future study.

by the constitution or specific legal acts. Further, for Christensen (2006) this includes authorization by law for the chief executive to make decisions in his own capacity. This is important to curb “ministerial interventions in his decisions as well as his consultation with the minister or the minister’s advisers on decisions that, according to the law, are delegated to him” (ibid.). The ability of policy principals to overrule agency decisions is an impediment to effective regulation (Minogue and Cariño 2006, 5).

Financial independence concerns the extent to which the agency is dependent on government funding or own revenues, and the extent to which the agency is responsible for its own losses (Verhoest et al. 2004, 106). From the perspective of principal-agent theory, financial management autonomy is important for the regulatory agency’s ability to manage its finances optimally according to their objectives. At least four sub-dimensions are important in this regard. The first two dimensions are interrelated. Firstly, independence is considered low if the agency is funded exclusively from the central government. Conversely, independence is high where central government funding represents a small share of the overall budget. The second sub-dimension deals with whether the agency is mandated to earn its own income. Independence is considered high where regulatory agencies have the ability to gain revenue through levying fees on the regulated firms. This increases their independence because it reduces budgetary dependence on the government. Perla Legaspi (2006) has however shown, in her case study of local regulatory authorities in the Philippines, how levying regulatory charges can lead to corruption and regulatory capture. Governments have traditionally restricted the ability of agencies to generate income through such a regulatory charge, and have also restricted their capacity to define the charge themselves. Allowing them to do so is however argued to increase their independence as they can better adjust the tariff to their cost structure. This allows for the management to maximize its budget for optimal output (Verhoest et al. 2010, 22). From a rational choice perspective it could also be used to optimize “organizational slack” as proposed by Niskanen (1971), a discussion we will not enter into here.

The third sub-dimension of financial independence concerns the ability to take up loans. There are three basic ways an agency can finance its investments: By using

their current capital, by saving capital for future investments, or by taking up loans in the capital market. According to Verhoerst et al. (2010), governments have traditionally been skeptical towards giving agencies the independence to take up loans. If the agency fails to service its loan, the government's debt ratio may worsen, which could raise the interest rate for government loans in general. Furthermore, the loan burden, which will last for several years, must be funded either through the state budget, or by the agency's "users". Being able to take up loans increases an agency's financial independence, which is particularly important where the agency has capital-intensive activities (Verhoest et al. 2010, 22), which is typical for petroleum regulators. The final sub-dimension of financial independence concerns whether the agency has to cover its own deficits.

Matters relating to *appointments of agency head and governing board* falls under what Christensen (2006, 115) terms structural autonomy. Agency independence is considered high where the agency head is appointed and evaluated by the agency board (Verhoest et al. 2004, 108) and the board is appointed for fixed terms by non-governmental actors (Christensen 2006, 116). Conversely, independence is low where the central government appoints agency head and governing board, and the board members can be resigned at any time (ibid.). Non-governmental appointments of agency head and board is considered important in many instances, in order to avoid the risk of partisan or patrimonial nominations, which can seriously impede on agency independence (Amundsen 2013b, 10). This risk might be higher in countries with a record of neo-patrimonial practices.¹⁹ A low score on this aspect of structural independence is also widespread in "legal-bureaucratic" contexts; Stern asserts that UK regulation appears to be less divorced from the policy process, for example since the government can choose the single person regulatory office head (Stern 2001, 103). In his discussion of electoral commissions, Amundsen (2013b, 10) claims that if executive appointment of agency head and board is the case, the appointment of respected public figures, known for non-alignment with politics, may nevertheless advance agency independence.

The fourth and final conceptual category considers *human resources management independence*. Human resources (HR) are often the most important factor of

¹⁹ The concept "neo-patrimonialism" is defined and discussed in section 3.4.

production for regulatory agencies, and the allocation of decision-making powers along this dimension has been a highly contested issue. Verhoest et. al (2010, 19) include three aspects of HR management: autonomy regarding salaries and the promotion and evaluation of personnel. Decisional autonomy on these issues may be important since it provides managers flexibility in staff numbers and thus better budgetary control, among other things. For the purpose of “getting the right man on the job” it should be important to have autonomy to set criteria for recruitment and also to evaluate staff to get the right incentives for doing a good job (Verhoest et al. 2010, 20).

Table 3.1 below summarizes the four categories of institutional independence, with a total of nine dimensions, according to how the concept is made operational from the above review.

Table 3.1 Operationalization of institutional independence

	Low	High
Legal	(1) The agency is part of the central government with no separate legal status; (2) the relevant laws give little decision-making power to the agency head; (3) decisions are taken by or in consultation with the minister.	(1) The agency is a separate legal entity by public law and is established by a parliamentary act; (2) the relevant laws place the decision-making power with the agency head; (3) relevant laws minimize the scope for ministerial interventions.
Financial	(4) The agency's funding stems exclusively from the central government; (5) the agency does not earn income through levying fees on regulated industry; (6) the agency cannot take up loans; (7) the agency does not have to cover its own deficits.	(4) A minor part of funding might stem from central government; (5) the agency is primarily funded by other sources than central government, e.g. by levying fees on regulated industry; (6) the agency can take up loans; (7) the agency must cover most of its deficits itself, e.g. by imposing budget constraints.
Appointments	(8) Central government appoints agency head and governing board; (9) board members can be resigned at any time.	(8) Agency head is appointed and evaluated by the governing board; (9) the board is appointed by actors outside central government and its members are secured fixed terms.
HR management	(10) Decisions regarding recruitment; salaries; promotions and evaluation of personnel are made by the central government.	(10) Decisions regarding recruitment; salaries; promotions and evaluation of personnel are made by the agency.

3.2 Accountability

According to Heller and Heuty (2010, 51), the need for accountability is the most important challenge in Ghana's process of reinvigorating its petroleum sector institutions. It is of critical importance to ensure mechanisms that hold both oil companies and the Ghanaian government accountable to the population (Heller and Heuty 2010, 51). Deficiencies in accountability are often more critical in new rather than established democracies (Schedler, Diamond, and Plattner 1999, 2), and often particularly problematic in oil rich countries (Kolstad, Wiig, and Williams 2008). An

oft repeated aim of the OfD program is to promote accountable government institutions, as a means to avoid the resource curse. However, accountability is “an underexplored concept whose meaning remains evasive, whose boundaries are fuzzy, and whose internal structure is confusing” (Schedler 1999b, 13). Accountability focuses on the need for checks and oversight, surveillance and institutional constrain on the use of power. Without being constrained by an institutional infrastructure of accountability, rulers are free to act as they please (ibid.).

As discussed earlier, the autonomy of a regulatory agency is perceived as important in order to withstand industry and political pressures. The independence of a regulatory agency can however create unwanted effects unless balanced by proper requirements for accountability (Baldwin 2012). Commentators warn that agencies may become dangerously independent of the political process, whereby they will lack accountability (Levi-Faur 2011, 370). How will the agency be held accountable, if largely insulated from other actors in politics and public management? There appears to be an inherent trade-off between the autonomy and accountability of such agencies. Nevertheless, Baldwin (2012, 113) warns against too much accountability: “The abilities of regulators to develop and apply their expertise, to operate efficiently in pursuit of their mandate, and to function in a transparent and accessible manner, may all be prejudiced by ill-judged moves to increase accountability”.²⁰ Transparency is another important quality of public management sought through the OfD program. Transparency is of reduced importance if democratic accountability is missing. There is little use in having information about the performance of public officials if their abuses cannot be punished. Transparency may therefore be considered a precondition for accountability and will be operationalized as part of the latter concept. To approach an operationalization of the concept accountability, it is useful to distinguish three sets of accountability questions: who is accountable, to whom and for what (Scott 2000, 41)?

Accountable for what?

Bovens (2007) views political accountability as resting on a set of principal-agent relationships. For example, voters delegate sovereignty to elected representatives who then delegate their authority to the cabinet and civil service. The concept of

²⁰ What Bovens et. al (2008) refer to as “accountability overload”.

accountability establishes a dialogic relationship between “accounting agents” and actors being held accountable. In a wide sense of the term, political accountability concerns the accountability of public officials in general, i.e. everyone employed by the state, from politicians to street-level bureaucrats. Political accountability (in the wide sense) can be further subdivided according to categories of *what* different state actors ought to be held accountable for. I choose to follow Schedler’s (1999b, 22) classification. He suggests seven sub-categories of political accountability. Firstly, political accountability (in the narrow sense) concerns the appropriateness of policies and policymaking processes as well as the personal qualities of political actors. Administrative accountability assesses the procedures and effectiveness of bureaucratic behavior (ibid.). This type of accountability is concerned with monitoring processes, or procedures, whereby inputs are transformed to outputs or outcomes (Byrkjeflot, Christensen, and Læg Reid 2013, 4). Professional accountability reviews compliance with codes of conduct or ethical standards of professionalism. Financial accountability means evaluating the use of public money by state officials, based on norms of efficiency and austerity. Legal accountability entails monitoring whether laws are followed. Constitutional accountability reviews whether legislative acts correspond with constitutional rules. Lastly, moral accountability means evaluating political acts on the basis of normative standards, but not necessarily related to laws and regulations (Schedler 1999b, 22).

Accountable to whom?

Public officials are thus accountable for a variety of acts and domains. The dialogic nature of the accountability concept necessitates an identification of the “agents of accountability” who are meant to check and restrain the power of public actors. O’Donnell’s heuristic distinction between vertical and horizontal accountability is a useful conceptual tool to identify different agents of accountability. O’Donnell’s distinction plays on a spatial metaphor of power: The vertical dimension refers to a classic pyramidal power hierarchy. Elevation in the hierarchy means power, whilst a low placement indicates powerlessness. Accountability can flow either top-down or bottom-up along this vertical dimension. Top-down, vertical accountability is

typically associated with administrative accountability²¹ (Schedler 1999b, 23). Administrative accountability can refer to the principal-agent relationship between higher ranking officials controlling lower ranking officials within an (public sector) institution. It can also refer to the principal-agent relationship between public agencies and other representative bodies of government (O'Loughlin 1990), in our context, the relationship between the relevant sector ministry and regulatory agency.

Electoral accountability is the most important mechanism in the bottom-up, vertical dimension (Schedler 1999b, 23). The fundamental institution of vertical accountability is free and fair elections, as that is the people's means to reward or punish politicians based on their performance. Civil society organizations and the media are also important institutions of vertical accountability.

Horizontal accountability refers to formal relationships within the state itself. Government must be accountable to the electorate, but also be subject to restraint and oversight from other public bodies. Horizontal accountability concerns the capacity of state institutions to check abuses by other public agencies and branches of government (Schedler, Diamond, and Plattner 1999). The classic expressions of horizontal accountability are the checks and balances between the executive, parliament and the judiciary. The purpose of this tripartite division of power²² is for these institutions to constrain, check and monitor each other to prevent any power abuse. Over the past century, the functional differentiation of the state has increased, and so has the number of "agents of accountability" (Diamond, Plattner, and Schedler 1999, 3). Examples of newer agents of horizontal accountability are auditor generals, ombudsmen, central banks and electoral commissions (Amundsen 2013c). In our context, the relevant agents of horizontal accountability are the Parliament, Auditor General and Judiciary. Metaphorically, the horizontality dimension implies that this is a relationship between agents of relatively equal power, though this will rarely be the case. For an accounting party to be taken seriously it should be more powerful than the accountable party in its areas of competence. This concerns the enforcement dimension of the accountability which is the focus of the following section.

²¹ What Schedler names bureaucratic accountability. The "forms of accountability" are overlapping and the terminology varies in the literature. Administrative accountability is for example closely connected to legal accountability.

²² As promoted by Montesquieu.

Accountability as answerability and enforcement

Accountability consists of two main aspects: answerability and enforcement (Schedler 1999b, 14–15). Answerability refers to public officials' obligation to provide information about their conduct, while enforcement denotes the capacity of agents of accountability to impose sanctions on power holders when they have violated their duties (ibid.). The term accountability is hence closely related to steering and control (Verhoest et al. 2010, 25; Scott 2000, 39).²³ Majone asserts that “independence from direct political control does not mean independence from political accountability” (Majone 1999, 11).

Answerability constitutes the informational aspect of accountability. It concerns the ability of accounting agents to oblige power to be exercised in transparent ways, through questioning what has and what will be done in a specific area. “Holding somebody accountable implies the opportunity to ask uncomfortable questions” (Schedler 1999b, 14). Answerability also entails forcing power holders to defend their acts, through giving reasons and forming judgments. “Being accountable to somebody implies the obligation to respond to nasty questions” (ibid.). This informational aspect of accountability is closely linked to *transparency*, which in a political context simply means “access to information” (Kolstad, Wiig, and Williams 2008, 1–2). Transparency is seen as an important quality for reducing corruption and other resource curse related problems. It is an important prerequisite for establishing proper institutional and regulatory structures (ibid.). Strengthening transparency is therefore an important goal in the OfD program. Transparency is important for creating conditions in which abuses can be challenged, which is linked to the second aspect of accountability: enforcement.

Enforcement of accountability means punishing bad conduct and rewarding good behavior. This aspect reflects a view that political accountability should be more than merely a discursive activity. Appropriate enforcement mechanisms are important incentives to induce proper behavior. Schedler states that:

²³ Schedler states that: “This two-dimensional structure of meaning makes the concept a broad an inclusive one that, within its wide and loose boundaries, embraces (or at least overlaps with) lots of other terms – surveillance, monitoring, oversight, control, checks, restraint, public exposure, punishment – that we may employ to describe efforts to ensure that the exercise of power in a rule-guided enterprise” (Schedler 1999b, 14).

Exercises of accountability that expose misdeed but do not impose material consequences will usually appear as weak, toothless, “diminished” forms of accountability. They will be regarded as window dressing rather than real restraints on power (Schedler 1999b, 16).

There is a large pool of possible sanctions. Mere exposure is in itself a powerful tool of accountability as it can destroy reputations. Removal from office is a common sanction for misconduct. Illegal behavior should be followed by legal sanctions (Schedler 1999b, 16–17).

Operationalization of accountability

I draw on the main insights from the above discussion to develop an operationalization of accountability applicable to the study of regulatory agencies. The main dimensions of accountability are well articulated in the following quote: “A is accountable to B when A is obliged to inform B about A’s past or future actions and decisions, to justify them, and to suffer punishment in the case of eventual misconduct” (Schedler 1999b, 17). Making RQ 2 and 3 operational necessitates identifying who constitutes “A” (the accountable party) and “B” (the accounting agent) in the respective research questions. With respect to RQ 2, the Petroleum Commission is seen as an “A” actor. Relevant accounting agents for a body like the Petroleum Commission are its sector ministry, relevant parliamentary committee(s) and the Auditor General. Regarding RQ 3, the Petroleum Commission can be considered a “B” actor in relation to the oil companies who it is supposed to regulate and monitor. Accordingly, the dimensions of enforcement and answerability must be taken into account. Whether the Petroleum Commission *is held* accountable, will be investigated through an empirical inquiry into whether the three relevant accounting actors ensure answerability and enforcement. Similarly, I will analyze whether the Petroleum Commission ensures answerability and enforcement towards the industry. The operationalization for each research question is summarized in tables 3.2 and 3.3 below.

Table 3.2 Operationalization of the Petroleum Commissions' accountability vis-à-vis relevant government bodies

	Low	High
Answerability	<p>(1) The sector ministry does not oblige the agency to explain and inform about the processes whereby inputs are transformed to outputs (vertical, administrative accountability);</p> <p>(2) Relevant parliamentary committee(s) does not oblige the agency to explain and inform about the processes whereby inputs are transformed to outputs (horizontal, administrative accountability);</p> <p>(3) The Auditor General does not oblige the agency to explain and inform about their financial conduct (horizontal, financial accountability) and their performance (horizontal, administrative accountability)</p>	<p>(1) The sector ministry obliges the agency to explain and inform about the processes whereby inputs are transformed to outputs (vertical, administrative accountability);</p> <p>(2) Relevant parliamentary committee(s) obliges the agency to explain and inform about the processes whereby inputs are transformed to outputs (horizontal, administrative accountability);</p> <p>(3) The Auditor General obliges the agency to explain and inform about their financial conduct (horizontal, financial accountability) and their performance (horizontal, administrative accountability)</p>
Enforcement	<p>(4) The sector ministry/relevant parliamentary committee/auditor general does not impose sanctions on the agency when they have violated their duties</p>	<p>(4) The sector ministry/relevant parliamentary committee/auditor general imposes sanctions on the agency when they have violated their duties</p>

Table 3.3 Operationalization of the Petroleum Commissions' role in keeping industry accountable

	Low	High
Answerability	<p>(5) The agency does not oblige the oil companies to explain and inform about their conduct;</p>	<p>(5) The agency obliges the oil companies to explain and inform about their conduct;</p>
Enforcement	<p>(6) The agency does not have the means impose sanctions on the oil companies when they have violated their duties</p>	<p>(6) The agency has the means to impose sanctions on the oil companies when they have violated their duties</p>

3.3 A two-fold approach to the study of institutional change

The above operationalization provides categories which will be applied to the empirical material to analyze the institutional independence and accountability of the Ghanaian Petroleum Commission in chapter 7. However, it is essential to keep in mind that there may only be a loose coupling between formal institutions and actual practice. Good institutional analysis must pay attention to both formal and informal rules. Actors respond to both, and informal incentives might triumph over the formal ones (Helmke and Levitsky 2012). Brunsson asserts that “It is relatively easy – basically with a couple of strokes of the pen on an organizational chart – to adapt the formal organization to changes in norms or new laws of fashions” (Brunsson 1993, 9). However, “[...] institutional reforms will not be worth the legislative paper they are written on unless supported by *real* changes in political attitudes, managerial practices and organizational competencies” (Minogue and Cariño 2006, my emphasis). With regard to institutional autonomy, it is thus important to make the distinction between agencies that are truly independent and those that are independent on paper but strongly influenced by the government and ruling party (Amundsen 2013b). Institutions that are formally dependent may act independently, while institutions that are independent may be “intimidated, colonized, or neutralized in practice” (Mozaffar and Schedler 2002, 15). Likewise, mechanisms for accountability may be ensured formally, while lacking in practice. “Scores” on the dimensions of the operational concepts may thus be different with regard to formal and observed change. The above arguments call for a twofold approach to the study of institutional independence and accountability. Based on this, I conceptualize a matrix of institutional reform with two dimensions representing degrees of real and formal change:

Table 3.4 Possible outcomes of institutional reform

		Formal change	
		High	Low
Real change	High	1	4
	Low	2	3

The simplified division between high and low change, gives four possible outcomes: Formal change can be accompanied by real change (outcome 1). Formal change can occur, while real change is lacking (outcome 2). Outcome 3 signifies that both formal and real change is low. The fourth possible outcome is low formal change accompanied by high real change. This matrix will be applied when the concepts of independence and accountability are analyzed in chapter 7.

3.4 Explanatory framework

In order to explain outcomes (cf. RQ 4), it is important to consider the fact that the regulatory reform is influenced by what several scholars have termed “policy transfer” from abroad. The vast literatures on policy diffusion (Walker 1969), lesson-drawing (Rose 1991), policy convergence (Bennett 1991) and policy transfer (Dolowitz and Marsh 1996) are all concerned with how:

Knowledge about policies, administrative arrangements, institutions and ideas in one political setting (past or present) is used in the development of policies, administrative arrangements, institutions and ideas in another political setting (Dolowitz and Marsh 2000, 5).

The concept is thus not merely concerned with “policy” in the common understanding of the term, where policy may be seen as a government statement of intended actions, in the form of laws, regulations and rulings (Birkland 2011, 8). Since the term also refers to the transfer of institutions and administrative arrangements it becomes relevant for the analysis at hand. Keeping in mind the role of the OfD program (cf. chapters 1 and 2), it should be clear that transfers of lessons from other contexts are likely to have influenced the petroleum regulatory reform in Ghana. Characteristics of the transfer process itself can be hypothesized to influence resulting institutional structures and practices (Dolowitz and Marsh 2000). It can have implications for whether policy transfer is likely to occur at all, as well as for whether implementation of reform will be “successful”. Dolowitz and Marsh have developed a conceptual “policy transfer framework” (1996; 2000), in which they have systematized insights from much of the above mentioned literature. The framework serves as a helpful heuristic to analyze empirical findings. It will be used to expand an understanding of (1) why the Petroleum Commission’s independence may be deemed sufficient, or possibly undermined, and (2) why certain accountability mechanisms are in place or lacking. The policy transfer framework is organized around a number of questions related to various aspects of the transfer process, all assumed to affect outcomes in

different ways. I have chosen to focus on the following three central questions, and treat them as explanatory variables for analysis: Is the transfer process voluntary or coerced? Who are the key actors involved in the policy transfer process? From where are lessons drawn (Dolowitz and Marsh 2000, 8)?²⁴

Though conceptually helpful, the frameworks' claims of causation between variables are somewhat underdeveloped. Evans and Davies (1999, 3) recognizes this, stating that "[...] in order to make stronger knowledge claims [the policy transfer framework] must engage in theoretical and methodological pluralism and integration." Following that thought, I will supplement the policy transfer framework with theories of institutional change.²⁵ The concepts in the policy transfer framework are used to frame and pose theoretically motivated hypotheses about the empirical material. The hypotheses are formulated towards the end of each of the below sections.

Voluntary and coerced transfer

The two first variables in the policy transfer framework address whether the transfer is voluntary or coerced and which actors who are involved in transfer. These two variables are interlinked, since the actors involved may affect whether transfer is voluntary or coerced. I thus discuss these two variables in conjunction. A policy transfer process can be conceptualized along a continuum ranging from the most voluntary forms of policy transfer, to direct imposition of what is being transferred from one domain to another. There are six stages of the continuum,²⁶ as illustrated in figure 3.1. Coercive policy transfer occurs when a government or a supranational institution pushes or forces another government to adopt a certain program (Dolowitz and Marsh 1996, 344). Transfer processes will often involve both coercive and voluntary elements, which might be difficult to distinguish between (Dolowitz and Marsh 2000, 14). For the sake of simplicity, I discuss the binary distinction between

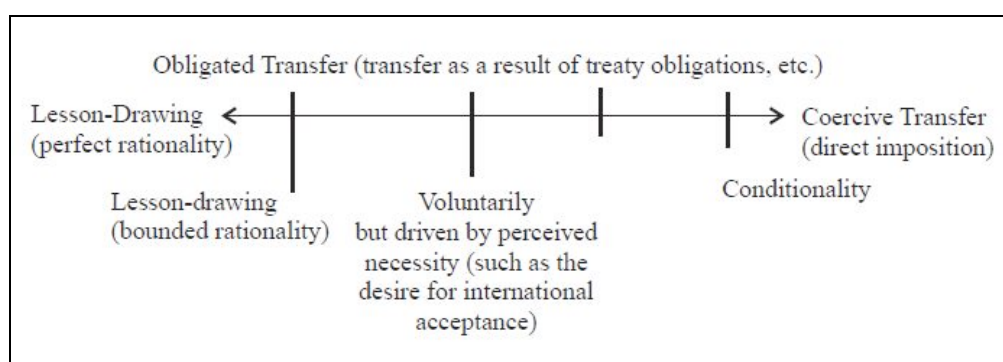
²⁴ The remaining questions are: What is transferred? What are the degrees of transfer? What restricts or facilitates the transfer process? How is the process of policy transfer related to "success" or policy "failure"? (Dolowitz and Marsh 2000, 8).

²⁵ Evans and Davies also argue that "policy transfer is a model of policy change" (Evans and Davies 1999, 367). James and Lodge agree that different schools of institutionalism offer insights into, for example, the voluntary-coercion dimension of policy transfer (James and Lodge 2003, 186).

²⁶ Ranging from maximum voluntariness (and i.e. minimum coercion) to the opposite: Lesson-drawing marked by perfect rationality, lesson-drawing marked by bounded rationality, voluntary transfer driven by a perception of perceived necessity, obligated transfer, conditionality and coercive transfer in the form of direct imposition.

voluntary transfer (in the shape of “lesson drawing”) and coercive transfer through donor conditionality. Due to the fact that donors appear to have an important role in the reform under study, I place main emphasis on the theoretical impact of coercive transfer. The discussion culminates in an empirical expectation of which impact a coerced transfer process is likely to have on institutional independence and accountability.

Figure 3.1 A policy transfer continuum



Source: Dolowitz and Marsh 2000, 13

Lesson-drawing is a concept coined by Richard Rose (1991, 7), defined as “an action-oriented conclusion about a program or programs in operation elsewhere.” Rose states that even though all countries have unique political systems and histories, problems that are unique for one country are abnormal. Confronted with common problems, governments are likely to draw lessons from each other. The lesson drawing part of the continuum implies that transfer is chosen as a rational response to a perceived problem. Transfer occurs as a “result of free choices of political actors” (Dolowitz and Marsh 1996, 344). This view of the policy process assumes a rational-choice perspective, where actors behave instrumentally to maximize the attainment of their preferences. Politics is seen a process of social learning where institutional creation results from voluntary agreement between the relevant actors (Hall and Taylor 1996). Dissatisfaction with the status quo, a gap between aspirations and achievement, drives actors to voluntarily search for existing solutions in time and space. The concept of lesson-drawing captures the importance of experience in policy making, and the fact that public officials are reluctant to implement solutions that have not been tried elsewhere. Lessons can be positive or negative, teaching policymakers what to do or not to do. For Rose, the critical analytical question is: “Under what circumstances and

to what extent would a program now in effect elsewhere also work here?” (1991, 4). Rose claims that “lesson-drawing tends to be voluntaristic” (1991, 9). However, there is also a push-effect in lesson-drawing when a country, or a group of countries, have disproportionately large power relative to the other (Majone 1991). Dolowitz and Marsh distinguish between lesson drawing marked by perfect rationality and bounded rationality (stage two of the continuum). Bounded rationality, a term coined by Herbert Simon (1957), recognizes the limits of human cognitive capacity and resources to process information. This distinction is not of vital importance here.²⁷ The more voluntary a transfer process is, the more likely it is that there will be a political will for implementation and a genuine ownership over the reform efforts. Reform is assumed to be the result of deliberate goal-directed choices between alternative organizational forms (Brunsson 1993, 67).

Dolowitz and Marsh place *donor conditionality* towards the coercive end of the transfer continuum. They claim that “when aid agencies are making loans it is likely to lead to coercive policy transfer” (2000, 16). The use of conditionalities can represent an explicit form of coercion, where donors demand that certain reforms are implemented. Policy conditionality is one important means by which aid can influence the decision to reform (Tsikata 2001, 82). Regulatory reforms in the water, electricity and telecommunication sectors in Ghana, have happened partly by consequence of demands from donors (Aryeetey 2004, 295). Different forms of aid conditionality have generally impacted the development path of a number of nations, as described in chapter 2. Aid has predominantly been used as an incentive for, but at the same time been very ineffective in creating, sustained policy change (Collier 1999a, 325; Bräutigam and Knack 2005). In aid dependent countries, donor conditionalities tend to undermine policy learning. Where donors set policy, ministries become passive. Officials have negative incentives to disagree with donors since this will delay the disbursement of resources (Rakner and van de Walle 2001). Collier asserts that genuine change is more likely where policies are determined by domestic political processes over which donors have little influence. Santiso points out that “External support to policy change has all too often failed to offset a lack of local commitment and ownership of reform. The use of financial leverage is not a

²⁷ For a critique of equating perfect and bounded rationality with voluntary transfer, see James and Lodge (2003, 185).

substitute for weak domestic institutions or feeble political will” (2001, 9). Donors’ use of conditionality as an incentive towards policy change involves purchasing change, which explicitly places ownership of policy with the donors (Collier 1999a, 323; Johnson 2005; Bräutigam and Knack 2005). This is exemplified by the fact that the World Bank for years referred to Ghana as “its” success (until the government started reversing their policies) (Bräutigam and Knack 2005). The former vice president of the World Bank has expressed: “For the World Bank, it will need to differentiate carefully between countries where reforms are serious and stand a reasonable prospect of success and those in which window dressing is used as a means of seeking additional funding” (sited in Santiso 2001, 10).

Actors involved in reform

The second variable in the policy transfer framework deals with actors involved in policy transfer. To make this variable relevant for the study of institutional reform, I draw on Schedler’s framework for analysis of actors involved in institutional reform (Schedler 1999a). Dolowitz and Marsh identify nine broad categories of political actors engaged in the process of policy transfer.²⁸ Schedler presents a similar list, agreeing that: “agencies [...]”²⁹ are not the product of lone institutional designers. Quite the contrary, constructing them tends to involve a plethora of actors: governments, state officials, legislators, judges, journalists, citizens, interest groups, public interest organizations, international financial organizations, and so forth” (Schedler 1999a, 336). Agents involved in transfer will often organize forums for the exchange of ideas between the “recipient” and knowledge elites within the relevant policy area. This will frequently include members of relevant epistemic communities (see Adler and Haas 1992) who share similar beliefs and common policy concerns. Such arenas can facilitate the development of consensual knowledge in a transfer process (Evans and Davies 1999, 379).

As an analytical starting point, Schedler talks of a binary structure of conflict where “conservatives” and “agents of change” constitute two sets of antagonistic actors

²⁸ Elected officials, political parties, civil servants, pressure groups, policy entrepreneurs, transnational corporations, think tanks, supra-national governmental and non-governmental institutions and consultants.

²⁹ Schedler uses the framework to analyze the genesis of “institutions of horizontal accountability” (cf. section 3.3), but the framework may advantageously be used to analyze institutional reform in other areas of politics as well (Diamond, Plattner, and Schedler 1999, 9).

influencing institutional reform. The boundaries between the two groups are not clear cut, and membership in one or the other group is not fixed. Reconstructing dichotomous conflicts between reformers and their opponents is common in empirical analyses of institutional reform (ibid.).³⁰ The binary distinction is further subdivided into “four modes” of institutional change: Reform can be triggered from outside, above, within or below. Since Schedler includes both domestic and “outside” actors, his framework becomes relevant for the study of policy transfer. In our context, relevant actors from outside are epistemic communities of experts, other governments and donors (discussed above). The four modes of change rarely work in isolation. The trigger for reform may come from one side, as somebody “has to kick the status quo from its point of equilibrium” (Schedler 1999a, 346).

In democratic systems all institutional creation must pass through government and parliament.³¹ In that sense, institutional reform cannot come anywhere else than *from above* (Schedler 1999a, 338). Top officials and legislators are veto players who have the final say when it comes to the establishment, formal structure and resource endowment of new institutions (Schedler 1999a, 338). Due to their role as veto players, actors “from above” are the most powerful both in both preventing and promoting reform.

Schedler asserts that: “Political institutions do not fall from heaven; they have to be conquered against the express will of those who defend the status quo (more often than not, because they benefit from it while they expect to lose in alternative futures)” (Schedler 1999a, 337). The quote refers to a common assumption in theories of institutional change: power-holders who are enjoying the status quo will be reluctant to reform, especially if reform negatively affects their vested interests. In the short run, institutional change generates winners and losers (Douglass C North 1992). Losers will commonly attempt to block policy change, making change difficult and largely incremental (Devarajan, Dollar, and Holmgren 2001, 10). This can be explained from the perspective of historical institutionalism – an umbrella term for a range of similar theories about institutional change. The punctuated equilibrium

³⁰ For example in the literature on democratic transitions, studies of the political economy of economic reform, judicial reform, electoral reform, state reform, civil service reform the combat against corruption and clientelism and the establishment of common property rights (Schedler 1999a, 336).

³¹ In two party-systems national legislatures are often dominated by the ruling government, making this them largely the same actors.

model is influential within this tradition, with its idea of path dependency (Mahoney 2013). From this perspective, internal reproductive mechanisms of institutions, such as increasing returns to scale, causes institutional change to be largely incremental. Positive feedback mechanisms maintain structures over time towards robustness and stability. Institutions are thus reproduced in long periods of continuity, interrupted only by critical junctures of radical change (March and Olsen 2008). Power-holders' tendency to prefer the status quo represents an important reproductive mechanism in institutions. According to North, the interests of actors in existing institutions produce path dependence as "[...] the mental modes of the entrepreneurs [...] bias the actors in favor of policies conceived to be in the interests of existing organizations" (North 1992, 12). Reform induced by aid can therefore temporarily disturb the political equilibrium, but is unlikely to shift it permanently (Collier 1999a, 326). Critical junctures are points in time when path dependent institutional stability is punctuated by brief phases of institutional flux (Capoccia and Kelemen 2007, 341). These are short periods where structural influences on political action are significantly relaxed. During critical junctures the range of choices available to political actors are expanded considerably. Choices and decisions that occur during critical junctures may have lasting impact on the direction of a self-reinforcing, path-dependent institutional development (Capoccia and Kelemen 2007, 343). Junctures are "critical" because they place institutional arrangements or trajectories which may be difficult to alter (Pierson 2004, 135).

What implication do these insights have for the study of institutional independence and accountability? Institutional reform frequently entails changing existing power structures. The creation of autonomous institutions will, more often than not, involve taking away power from existing institutions. The reform under study in this thesis, involves the establishment of a new institution, which at the same time affects the structure of (at least) two existing institutions: The Ministry of Energy and Petroleum and GNPC. The reform involves directing some of the responsibility that was previously mandated to these institutions, to the new Petroleum Commission. As discussed, such changes may trigger reactionary behavior from actors enjoying this power from the outset. History provides several examples of this, including the development of constitutional courts in East Central Europe and Central Banks in Russia, whereby both had their independence thwarted and had to proclaim it in open

confrontations with governments unwilling to offer sufficient autonomy (Schedler 1999a).

Based on the above, I shape the following argument: Assume that donors³² are the prime movers of change, by demanding that an institution is established through attaching conditionality to disbursements of aid. In the terminology of Dolowitz and Marsh, this represents coercive policy transfer. In such an instance, lack of local commitment and ownership among higher government officials is likely. We may however assume that reform is adopted and implemented, since government officials have negative incentives to disagree with donors, as this may delay or block the disbursement of funds. Nevertheless, reproductive mechanisms within existing institutions may work counter to change. The recipient country may wish to satisfy donors, while attempting to retain existing structures. The government will establish an institution that satisfies the first dimension of independence: creating a separate legal entity (cf. section 3.1). The government will however strive at keeping decisional powers within the central government, giving low independence along dimensions 2 and 3. The central government may wish to influence the agency by keeping powers of appointment of agency head and board, thus creating low independence along dimensions 8 and 9. Central government may also wish to influence staffing of the agency, leading to low independence along dimension 10 as well. In section 3.3 it was argued that (administrative) accountability is closely connected to steering and control (Schedler 1999b, 14; Verhoest et al. 2010, 25). Following the same line of thought, administrative accountability between the superior ministry and established agency can be expected to be strong in order to maintain a great degree of control. High accountability along dimension 1 can thus be expected. Based on this line of argumentation I formulate the following hypothesis:

Hypothesis 1: If donors are the prime mover of reform (through applying conditionality), high autonomy along dimension 1, high accountability along dimension 1, and low independence along dimension 2, 3, 8, 9 and 10 will be the result.

Thus far it has been assumed that donors are the primary proponents of reform (actors of change), while government may “halt” reform towards low degrees of

³² This may be the Norwegian government through the OfD program, or other donors.

independence, and corresponding high degrees of administrative accountability. Rational choice institutionalists assume that popular demands are the driving force of institutional reform. In democratic systems, actors *from below* can influence a reform process through advocacy. Reform is frequently induced "from below", by the electorate and "civil society".³³ In many societies, civil society organizations function as watchdogs, pressuring government to improve on accountability and "good governance". Such demands regularly include pressuring government to follow international best practice of governance. The presence of an independent regulator in the petroleum industry is frequently referred to as "best practice" (Banful 2010). Since government is assumed to have self-interest in reelection, they will be more receptive to demands from "below", than from "outside". In societies where vertical electoral accountability is strong, power-holders' interest in reelection may curb their short-term interest of retaining the status quo (Schedler 1999a, 340).

Killick et. al claim that "the objectives and interests of donor agencies and of recipient governments can rarely be expected to coincide" (Killick 2005, 98). However, the interests of donors and civil society may coincide. Schedler asserts that the success of change-promoting actors depends on the support they receive from other actors. Their success depends on forming coalitions for change (Schedler 1999a, 347). Donors frequently fund civil society organizations (CSOs) in countries they operate in to pursue common agendas (Hearn 2001).

I shape an empirical expectation of reform outcomes, based on the main assumption of the previous argument: Donors aim to induce institutional reform in a recipient country. I further assume that CSOs share the preferences of the donors (either because they are funded by donors and/or because both agents promote good governance as part of their agenda). It is assumed that CSOs are truly independent of government, and not coopted by them (thus sharing governments' preferences). Due to government officials' interest in reelection, they will be more receptive to the demands from their domestic civil society, thus including several of their demands in the institutional design of reform. The coinciding preferences of donors and civil

³³ Definitions of civil society vary greatly but is generally perceived as actors separated from the state and the private sector (Rooy 2013). Here civil society will refer to voluntary associations, think tanks and the media (Schedler 1999a, 340).

society have a greater chance of gaining prevalence if they form a coalition for change. We assume civil society promotes a high degree of independence for the regulatory agency, to insulate it from political bias and short term political interests.

Hypothesis 2: If donors and CSOs coalesce in promoting regulatory reform, there will be a greater chance of independence and accountability along all dimensions of the concepts.

From where are lessons drawn?

The third transfer variable considers the spatial dimension of policy transfer. Policy makers may seek lessons from three levels of governance: The international, the national and the local (Dolowitz and Marsh 2000, 12). Transfer might take place at and between any of these levels (Evans and Davies 1999, 368). Here we will focus on whether lessons about institutional features are drawn primarily from within the nation or from the cross-national level (see Dolowitz and Marsh 2000, 9). The fact that domestic structural features inevitably will influence outcomes cannot be circumvented. Domestic structures and traditions produce path dependence, limiting the range of options available in a transfer process, and thus reducing the possible impact of the transfer process on final outcomes. Structural constraints may include constitutional or other legal requirements regarding institutional arrangements. The following paragraph discusses how informal structures may influence relevant outcomes of reform.

A common entry point for analyzing the African state is the concept of the neo-patrimonial state, initially coined by Eisenstadt (1973).³⁴ The neo-patrimonial state stands in contrast to the Weberian ideal type of the legal-rational state. Expressions of the neo-patrimonial state are by no means restricted to Africa, as most states can be said to exist in a continuum between the ideal types of the neo-patrimonial and the Weberian state (Braathen, Bøås, and Sæther 2000). Weber claims that modernity gave rise to the modern state and its bureaucracy, where legitimacy emerges from the rule of a rational-legal authority. The modern state has supreme authority over its territory and monopoly on the use of legitimate force. Patrimonialism is a term introduced by

³⁴ The term has become associated with the works of Jean-Francois Médard and Christopher Clapham, among others.

Weber in his writings on traditional authority, where the patriarchy within the smaller family unit is extended to broader societal relations (Weber 1978).

In Africa, neo-patrimonial norms often permit unregulated presidential control over state institutions with a degree of executive dominance that far exceeds a president's constitutional authority (Helmke and Levitsky 2012, 86). The Neo-patrimonial state exists in a tension between a legal-rational bureaucratic framework on the one side, and a personalistic framework on the other. The public sector unites inherited traditional values with the logic of the modern state. Employment in the public sector is commonly seen as an important source of personal enrichment (Bøås and Dokken 2002). Instead of having the impersonal and abstract character of legal-rational domination, political power becomes personal power (Bøås 2001, 701). Political power structures are regularly maintained through vertical clientelistic relationships, where political patrons maintain the political or economic support of their agents through providing patronage.

Gyimah-Boadi and Prempeh characterize Ghana as having patronage-based politics, and argue that “a multitude of public-sector opportunities – jobs, consultancies, directorships, civil-service posts, and construction contracts – are reallocated entirely on the basis of party loyalty after a party turnover in government” (2012, 101). Civil service reforms often involve efforts to curb patrimonial rule. Brinkerhoff et. al (2002, 33) claim that “civil service reform is important to depoliticize and professionalize the bureaucracy, but this always encounters resistance.” Aryeety (2002, 23) argues that regulatory agencies in Ghana only enjoy partial independence. Ministers can give a great deal of direction on the discharge of their functions and their boards and agency heads are mainly appointed by the president (ibid.).

Hence, there are reasons to expect impediments towards certain aspects of institutional independence if lessons are drawn primarily from within the nation. It has been argued that neo-patrimonial structures often permit great presidential control over state institutions. To the extent that such structures are salient in Ghana, we may expect significant scope for ministerial interventions in relevant laws, thus reducing independence along dimension 3. Conversely we may expect ministerial administrative accountability to be strong, since that allows for a greater deal of executive control over the agency (dimension 1 of accountability). Independence with

regards to appointment of board members and agency head may also be expected to be low in neo-patrimonial systems, where power structures are upheld by vertical clientelistic relationships. Political principals may provide their agents opportunities for public sector employment, either through appointments to boards or by influencing the staffing of an agency as a means of patronage. The latter may motivate central government to maintain decisional power in HR management. Any salience of neo-patrimonial power structures may thus lead to low independence along the dimensions concerning appointments of agency head and board (dimension 8 and 9) as well as for HR management (dimension 10). Based on this I shape a third and final empirical expectation to be tested in the analysis:

Hypothesis 3: If lessons about the organizational structure are drawn primarily from the domestic level, high accountability along dimension 1 and low independence along dimension 3, 8, 9 and 10 will be the result.

Before presenting relevant empirical information in chapters 5 and 6, I elaborate on strengths and weaknesses of my data collection methods in the next chapter.

4 Methodology

As initially established, this thesis has adopted a qualitative case study approach. As I discuss below, the study is not aimed at drawing general conclusions about a larger set of cases. The case study method is therefore fit for purpose, allowing for holistic analysis with “thick descriptions” (Geertz 1973; Gerring 2007, 49). The main methods for data collection were semi-structured interviews and document studies. In this chapter I describe in closer detail how these methods have been utilized during the course of the study.

4.1 The case study method and potential for generalization

A *case* refers to a phenomenon delimited in space and time (Gerring 2007, 19). The case under study is “Ghana’s petroleum regulatory reform during the period 2007 to 2013.” As chapter 5 will show, the case begins when petroleum regulatory reform appeared as a policy issue in 2007 and ends shortly prior to the data collection period. It should be noted that the temporal scope of a case, is often longer than the period about which data is collected (Gomm, Hammersley, and Foster 2000, 109). Spatial boundaries of a case are often more obvious than temporal boundaries (Gerring 2007, 19). Ghana’s reform is still ongoing as central legislations are not yet passed and institutional practices not fully settled. This has implications for suggestions for further research on the topic, as will be discussed in chapters 7 and 8. Further, calling something a case implies that the phenomenon relates to a broader set of cases (Gerring 2007, 13). George and Bennett define a case as an “an instance of a class of events” (2005, 17). The reform under study can be seen as an instance of “petroleum regulatory reform in sub-Saharan Africa.” Though case studies regularly aim to shed light on a larger set of cases, their potential for such generalization is often weak since the unit under focus is not necessarily representative of a population of similar phenomena (Gerring 2007, 21). The case study method is therefore commonly critiqued for its weak external validity, that is its lack of representativeness between sample and population (Gerring 2007, 43). Generalization is however a matter of degree. Though not perfectly representative of a broader phenomenon, findings from a case study may have *transferability* to other similar cases (Gomm, Hammersley, and Foster 2000). Lincoln and Guba (2000) argue that case studies offer working hypotheses that can be used to understand other cases where there is transferability

between “source” and “target” cases. The concept of transferability implies that readers determine whether findings are applicable to other cases, rather than the researcher making explicit generalizations to a population (Gomm, Hammersley, and Foster 2000, 98–100). Single case studies allow for the generation of hypotheses that can be tested elsewhere (Gerring 2007, 41).

4.2 Rationale behind choice of case

In order to make findings transferable to similar instances, my choice of case was motivated by what Gerring calls “typical case selection”, where the case is chosen based on similarity to the larger class of cases (Gerring 2007, 91). The thematic motivation for the study was an interest in good governance reforms. More specifically: the influence of aid on institutional reform in developing countries. The Norwegian Oil for Development program came forth as an empirical example of a promoter of good governance in institutions through aid. OfD is the most frequently demanded Norwegian aid program and appears to be the best-funded petroleum aid program globally (Scanteam 2013, xix). An empirical focus on the OfD program therefore appeared to have practical value in addition to thematic fit. In addition, choosing a reform influenced by a Norwegian aid program, would hopefully give findings increased relevance to the immediate audience of readers. These factors provided pragmatic justifications for narrowing the scope of possible cases to OfD’s 18 cooperating countries (cf. section 2.3). A further criterion for the choice of case was to select a country where institutional reform was in focus. A recent evaluation of the OfD program concluded that “The overall finding is that OfD has generally not given governance problems sufficient attention, with Ghana being the most positive exception of the cases looked at” (Scanteam 2013, xix). OfD support to Ghana has among other things focused on developing legal frameworks to establish relevant institutions. In the evaluation, OfDs support on drafting of the Petroleum Commission was put forth as an important basis for establishing institutions with proper regulatory functions. Ghana was thus chosen because the focus on institutional reform appeared to be stronger here than in other OfD cooperating countries. If the larger class of cases was “OfD cooperation countries” this would be regarded as a deviant case selection (Gerring 2007, 89). However, the choice of case was made to ensure that findings from the case study could shed some light on the similar cases of *institutional regulatory reform*. Minogue and Cariño (2006) have edited a compilation of case

studies about regulatory governance in developing countries. Nevertheless, the issue of regulatory reforms in developing countries appears to be a somewhat underexplored field in the political science literature. This thesis aims at contributing to this scholarly literature. The study's ambitions of generalization are however modest. The study shares resemblance with the "intrinsic case study", where a particular phenomenon is investigated partly for its own sake. This is common in evaluative case studies, where focus is directed to whether a policy or program implemented in a particular place achieved its goals or produced desirable effects (Gomm, Hammersley, and Foster 2000, 99). Following this thought, research questions 1-3 were termed evaluative research questions, as they aim at assessing certain outcomes in the particular reform.

The study has taken a single-case study approach. Research question 4 asked to what extent the policy transfer framework could explain outcomes in the reform. In this regard, a multiple or comparative case study could have been useful to properly assess the value of the theoretical framework. Such a design would allow for more variation across the selected cases, thus make stronger claims of verification or falsification of the proposed hypotheses. Cross-case studies may have larger potential to make *general* claims about the value of a theoretical framework. If the main aim was to test and scrutinize a general validity of the theoretical framework, a multi case approach would definitely be more useful. However, the explanatory part of this study takes more of an exploratory approach. The policy transfer framework has a heuristic value by providing insight into the specific reform process.

Finally, since the focus of this thesis is on a sole institution, a qualitative approach is chosen before a quantitative one. Both qualitative and quantitative methods can be used to determine regulatory independence and accountability, and the latter is convenient when comparing the independence of several agencies (see Gilardi 2002; 2005). In the following I describe the qualitative data collection methods used. I pay particular attention to strengths and weaknesses regarding scientific validity and reliability of the research design.

4.3 Fieldwork

According to King, Keohane and Verba, the most important rule for all data collection is to report how the data were created and how they were processed (1994, 51). A

great share of my data was collected during a fieldwork in Accra, Ghana, January 1th until February 7th 2014. The research project had been approved by the Norwegian Social Science Data Services (NSD) prior to the field work.³⁵ The project was also financially supported by the foundation *Fritt Ord*. During my stay in Accra, I conducted 15 interviews with a total of 17 respondents. I emphasized to the respondents that their participation in the project was voluntary, that they could choose to be referred to anonymously and that the recorded interviews would be treated with confidentiality and deleted after the end of the project. Some respondents preferred anonymity, and are therefore not identified by name. A comprehensive list over respondents is presented in appendix 1. The sample of respondents consisted of six Ghanaian government officials, three Norwegian government officials related to OfD, four persons from Ghanaian civil society organizations, two World Bank officials, one scholar and one journalist. The categorization of respondents is based on their current occupations. However, some respondents were relevant particularly because of their former capacities. For instance was the scholar interviewed, Kwaku Appiah-Adu, previously a presidential advisor on oil and gas matters.

In some social science research, interviewees are selected through *random sampling* where each unit of the population has a known probability of being selected. This is essential if the aim of the study is to make causal inferences about the larger group of respondents (Tansey 2007, 768). As discussed above, this thesis has modest ambitions of generalization, and aims rather at gaining insight into the particular phenomenon under study. Therefore, respondents were chosen based on their knowledge and experience with processes related to the regulatory reform. The respondents were selected from a *non-probability sampling approach*, based on the snowballing, or chain-referral, sampling method. This procedure is common when the population of interest is not fully visible from the onset (Tansey 2007, 770). By this method, I identified an initial set of relevant contact persons, and requested they suggest other respondents of relevance to the topic. Roughly speaking, total sample of respondents has resulted from three such chain-referring processes. In the initial phases of framing the study, I established contact with Norad. Officials there provided me with valuable background information about the OfD program in Ghana. Norad referred me to the Norwegian Petroleum Directorate. They provided me with contact

³⁵ Approved December 2013.

information for a person at the Petroleum Commission in Ghana, who turned out to be an important “gatekeeper” for gaining access to respondents there. After an informal e-mail correspondence with that contact person, a formal letter with an official request for conducting interviews signed by my supervisor was sent to the Petroleum Commission. The letter emphasized that the research was independent of the Norwegian government, and that the government would not be given access to the data collected, only the resulting thesis itself. This was emphasized to all respondents, to avoid them perceiving me as representing any interested party. The interviewer’s characteristics and attitudes may affect the answer of respondents. “The social desirability effect” implies that respondents answers are related to their perception the social desirability of those answers (Bryman 2004, 220). A Norwegian researcher asking questions about a Norwegian aid program may lead respondents to consciously or unconsciously portray an overly positive image. This effect can hardly be excluded, but I attempted to dampen it. When possible, respondents received an introductory letter or a letter of reference prior to the interview, where I emphasized the independence of the study. The letter is attached as appendix 2.

After arrival in Accra I met with my contact person at the Petroleum Commission to further discuss the scope of the study, and for him to recommend the appropriate persons for the interviews. Upon his request, I also sent my interview guide for respondents at the Petroleum Commission. Based on this, the contact person identified four respondents in the Petroleum Commission whom I interviewed. The second chain referring sampling process resulted from the contact established with the Norwegian Embassy in Accra. Firstly, they welcomed my request to gain access to archive documents about the Oil for Development program, allowing for a comprehensive document study. Secondly, they facilitated interviews for me. I conducted one interview with the person currently responsible for the OfD program at the embassy. I was also able to interview two Norwegian officials from the OfD secretariat during their official visits to Accra. The third chain-referral sampling procedure, started with a correspondence with the Kofi Annan International Peacekeeping Training Centre (KAIPEC).³⁶ Upon my request to get in contact with academics working on petroleum governance in Accra, they compiled a

³⁶ An international center for training and research about African peace and security, located in Accra. I owe gratitude to Karin Dokken at the University of Oslo who suggested I contact KAIPEC.

comprehensive list of relevant persons from civil society and public sector organizations. Based on this list, I contacted several relevant persons per e-mail and phone which directed me to important respondents.

4.4 Reliability and validity of data

That being said about the sampling procedure, I move on to discuss issues regarding reliability and validity of the data. While validity refers to how appropriate the chosen measuring instrument is for tapping the underlying phenomenon of interest, reliability refers to how consistent results would be with the repeated use of the same measuring instrument (Berry 2002). Although analytically distinguishable, reliability and validity are related because validity presumes reliability. In the words of Bryman: “If your measure is not reliable, it cannot be valid. [...] If the measure fluctuates, it may be measuring different things on different occasions” (2004, 75). I begin by discussing the reliability of my findings, before discussing their validity.

In my view, there are four possible threats to the reliability of my results: the composition and size of the sample of respondents, the flexibility of the questions asked and the operationalization of the theoretical concepts. A danger with the snowballing method is that respondents regularly will suggest persons similar to themselves, creating sampling bias. The sample may contain an overrepresentation of interviewees with similar characteristics (Tansey 2007, 770). You risk getting a rather homogenous group of respondents. This threatens the reliability of results, since other information could arise from a differently composed sample. Since my sampling procedure was guided by three different and parallel snowballing processes, the group of respondents became rather heterogeneous, reducing the potential skewedness of the sample.

The fact that the sample of respondents is relatively small may represent a second threat to the reliability of the results. Other information could come forth from a larger sample. Thus, reliability could probably have been advanced by including respondents beyond the 17 interviewees. It would have been relevant to speak to more persons from both the Ghanaian and Norwegian side. Reliability could for example have been improved by conducting interviews with officials from the Ghanaian national oil company GNPC and the Norwegian Petroleum Directorate. Unfortunately, practical- and time constraints made this difficult to achieve.

A third threat to the reliability of the study concerns the questions asked. The topics for conversation were largely similar across the interviews. But since the respondents had different involvements in relevant processes, I sought somewhat different information from the various types of respondents. In addition, respondents would in some instances point my attention towards issues of relevance to the research questions that I was not aware of. Therefore, some questions were added throughout the interview process. Since I did not use an identical, consolidated interview guide for all interviews,³⁷ it would be difficult for another researcher to replicate the study and achieve the exact same results. This illustrates how the valuable flexibility of semi-structured interviews may compromise on reliability.

I have attempted reduce these three threats towards reliability by using multiple sources of data. When possible, I have checked the information obtained through interviews against reliable written sources. The archive studies at the Norwegian Embassy in Accra were helpful in this regard. As abovementioned, Scanteam has conducted a comprehensive evaluation of the OfD program (Scanteam 2013). This evaluation is currently being followed up by the same consultants. I have spoken with consultants from Scanteam on two occasions, discussing my findings regarding the Petroleum Commission and the reform processes as such. No significant discrepancies were revealed, which confirms a certain level of reliability. However, since Scanteam's approach to studying the Petroleum Commission varies from mine, these consultations cannot be regarded as verifying my findings. However, such cross-checking ensures satisfactory reliability of data to a greater extent than if interviews were used as the sole source of information. The flexibility of a qualitative research design will inevitably compromise somewhat on reliability.

The fourth caveat of reliability concerns the operationalization of the theoretical concepts in the study. In the previous chapter I emphasized that there is no consensus on how to operationalize the concept institutional independence. Verhoest et. al. claim that "the choices of conceptualizations, analysis and measures of autonomy are not neutral but rather influence the research outcomes" (Verhoest et al. 2004). If a different researcher were to conduct a similar study, applying different operationalizations of the theoretical concepts, his or her results would probably be

³⁷ See interview guide in appendix 3.

different from mine. However, reliability was here interpreted as “how consistent results would be with the repeated use of the same measuring instrument” (Berry 2002). Operationalizations are a vital part of that measuring instrument. Since the concepts were operationalized in a transparent manner, another researched would in principle be able to use the same operationalizations and achieve the same results (if one disregards the other three threats towards reliability). Therefore, operationalization is less of reliability problem with this study as such, but a problem associated with the bulk of research on institutional independence.

The reliability issues also have implications for the validity of the results. Scientific validity is a broad concept with a range of dimensions. Above it was argued that the *external validity* of the study is limited, since the results cannot easily be generalized to a larger population of cases. *Construct validity* refers to whether the empirically operationalized concepts measure the underlying theoretical concepts of a study (Bryman 2004, 72). Verhoest et. al.’s critique from the previous paragraph applies here as well. The preceding chapter was largely focused on developing a sound operationalization of the concepts institutional independence and accountability, reflecting a wide range of literature on the field. The construct validity between the underlying theoretical concept and the empirical expression is thus argued to be rather sound. However, such operationalizations are never neutral, and their construct validity is part of a larger methodological debate beyond the scope of this thesis. Closely related to construct validity is *measurement validity*. The latter refers to whether a measure of a concept really measures the underlying concept (Bryman 2004, 72). The way the operationalized concepts were conveyed to respondents through questions may represent a threat to the validity of the study. Respondents could have understood questions and concepts differently, jeopardizing the measurement validity. Again, this is a common trade-off with the qualitative interview method.

4.5 Document studies

In closing, I elaborate on the documents studied. The main source for assessing formal institutional independence and accountability is the Petroleum Commission Act, which describes the institution’s mandate and structure. Other relevant laws affecting the mandate of the Petroleum Commission are the Local Content Law and

the Petroleum Exploration and Production Bill. These three legal documents have been coded and analyzed based on the theoretical operationalizations in chapter 3. The Petroleum Exploration and Production Bill is not a public document. By luck I was able to obtain a physical copy while one of my Ghanaian respondents was attending a meeting in Oslo, in late March. Since this document was attained rather late in the study, time constraints have made me unable to analyze it in its entirety.³⁸ I therefore emphasize that additional findings could appear if a proper analysis of this document had been included in the study.

Further, a comprehensive document study was carried out at the Norwegian Embassy in Accra, where I was provided access to folders containing written materials about the OfD program. The folders mainly included e-mail correspondences and meeting minutes. Since I was not permitted to photocopy or photograph any of the material, I spent numerous hours copying text by writing. This exercise was carried out rather early during the field work. This was advantageous for gaining a great deal of oversight in the Norwegian-Ghanaian cooperation. Nevertheless, this may also have created a bias in framing my understanding of the processes from a one sided perspective. Again, the multiplicity of sources utilized has hopefully offset such methodological caveats. Other documents that have proved helpful in gaining insight into the overall reform process, including the influence by external actors, are the mentioned Scanteam evaluation, various analyses by Ghanaian civil society organizations, World Bank reports, Norad's annual reports on the OfD program and a Memorandum of Understanding regarding Ghana and Norway's cooperation within the petroleum sector.

In the next two chapters I present empirical information about Ghana's regulatory reform processes. This will lay the foundation for an analysis aimed at answering the thesis' four research questions in chapter 7.

³⁸ The legal document is near 100 pages long.

5 Petroleum Governance and Aid in Ghana

Ghana is a lower middle-income country located along the Gulf of Guinea in West Africa. Ghana neighbors Cote d'Ivoire to the west, Burkina Faso to the north and Togo to the east. The Gold Coast, as the country was formerly called, was the first country in sub-Saharan Africa to gain independence from European colonialism in 1957 (Dzorgbo 2001, 143). While British colonial rule was relatively subtle and indirect, it left a significant historical legacy. The British imposed bureaucratic-legal public administration, while also preserving traditional political institutions such as the chieftaincy³⁹ (Dzorgbo 2001). Britain's civil service was used as a model to shape the public administration of The Gold Coast, which came to "resemble the British variant of classical Weberian public bureaucracy" (Price 1975, 43). The country has had a turbulent political history with nine different governments and four military coups between 1957 and 1983 (Dzorgbo 2001). The Provisional National Defense Council (PNDC) headed by Jerry Rawlings ruled the country under a military dictatorship from 1981⁴⁰ until democratic elections were held in 1992. Authoritarian and neo-patrimonial structures were strengthened in the early years of Rawlings rule (Dzorgbo 2001, 281). Coming to power with a slogan of fighting a "holy war" against international imperialism, Rawlings ironically became one of the firmest implementers of the World Bank and IMFs Structural Adjustment Program (Dzorgbo 2001, 272). The World Bank has been an important development partner for Ghana, and considered as its "star pupil" (Hutchful 1995).

The 1992 constitution⁴¹ laid the ground for a democratic presidential system with a maximum tenure of two presidential periods. The constitution ensures the right to vote, the right to form and join political parties⁴², freedom of assembly and freedom and independence of media. This pro-democratic move has been accredited to domestic pressures as well as World Bank/IMF political conditionalities (Dzorgbo

³⁹ The continued rule of regional chiefs.

⁴⁰ Rawlings had seized power through military revolt in already 1979. Power was handed back to civilian politicians later the same year, but taken back by PNDC in 1981.

⁴¹ The current constitution of Ghana.

⁴² Political parties had thus far been banned.

2001, 299). Since 1992, elections have been held every four years. From 1996 these have been fully competitive multi-party elections. The incumbent president has stepped down twice because of electoral defeat, implying that Ghana has passed Huntington's "two-turnover test", indicating that a democracy is consolidated when the executive has renounced power peacefully at least twice as a result of electoral defeat (Huntington 1993, 267). Over the past two decades Ghana had developed a stable and competitive two-party system (Gyimah-Boadi and Kwasi Prempeh 2012, 95).

Article 269 of the 1992 constitution requires regulation of the utilization of natural resources (Aryeetey 2004) and establishes a number of commissions "which shall be responsible for the regulation and management of the utilization of the natural resources concerned and the co-ordination of the policies in relation to them" (Government of Ghana 1992). The constitution specifically names a Minerals Commission, a Forestry Commission and a Fisheries Commission, "and other Commission as Parliament may determine" (Government of Ghana 1992). Donors have played an important role in creating regulatory agencies in Ghana through using aid conditionalities (Aryeetey 2002, 43).

5.1 Legislative framework for the petroleum sector: 1980s

Petroleum exploration in Ghana started as early as 1896 and has continued to the present (Donyinah 2013, 17). Legal frameworks for the management of a petroleum industry were set up in the 1980s under the PNDC government (Banful 2010). Three laws were of particular importance: The Ghana National Petroleum Corporation Law of 1983, which established The Ghana National Petroleum Corporation (GNPC) as a national oil company mandated to undertake petroleum exploration and production on behalf of the government (Donyinah 2013, 17). The Petroleum Exploration and Production Law of 1984 provided the framework for management and regulation of the oil and gas sector. The Petroleum Income Tax Law (PNDCL 188) was established in 1987 to deal with fiscal and taxation issues (Banful 2013, 146).

In June 2007, oil was discovered in commercial quantities offshore the Western region of Ghana.⁴³ The field was named The Jubilee Field as the discovery was made

⁴³ The discovery was made by the companies Kosmos Energy, Tullow Oil, Anadarko and E.O. Group (Donyinah 2013, 18).

in the year of Ghana's fifty years anniversary of independence. The petroleum discovery raised great expectations among inhabitants in Ghana's Wester region, hoping the revenues would be addressed towards development needs (Osei-Tutu 2012). The quantity of oil is modest by global standards. IMF has estimated an average revenue of approximately \$ 1 billion a year, the same amount Ghana receives in annual development assistance (Gyimah-Boadi and Kwasi Prempeh 2012, 94–95).

5.2 Government response to oil discovery: 2007-2008

In October 2007, shortly following the oil discovery, GNPC applied for assistance from OfD (Norad 2011a; Scanteam 2013, 31). The request was supported through dialogue between then Ghanaian President John Kufuor and the Norwegian Minister of International Development, Erik Solheim. The appeal was also followed up by a call from former secretary general Kofi Annan⁴⁴ to Mr. Solheim. In the phone call Annan says:

Your experience is so important, I hope you can advise the government, work with them and steer things in the right way. I think transparency is going to be key, and also the training of the staff and setting in place the right regulatory mechanisms, is going to be very essential.⁴⁵

Solheim responds that “Norway is very eager to share our experiences with such a promising country as Ghana.” Following this initiation of cooperation, the Ghanaian government convened a national forum in Accra, in February-March 2008. The president had formed an Oil and Gas Technical Committee, to facilitate a policy response to the recent petroleum discovery (Dypedokk 2011, 72).⁴⁶ The Technical Committee initiated and organized the national forum, under assistance from Norway, the World Bank and other development partners. The World Bank was the main financial sponsor. The forum was aimed at gathering lessons about successes and

⁴⁴ Himself a Ghanaian national.

⁴⁵ The phone call is made available on podcast:

http://media.regjeringen.no/ud/lyd/rett_paa_traaden/KofiAnnan.mp3

⁴⁶ The committee consisted of six sub-groups respectively concerned with issues of security (i), environment (ii), the legal regime (iii), fiscal regime (iv), the downstream and natural gas utilization (v) and private sector and local participation (vi). The GNPC and the Attorney generals departments were represented in all six teams. The teams otherwise mainly consisted of representatives from The Ministry of Energy and Petroleum, the Attorney Generals Department, the Ministry of Finance and Economic Planning, the Internal Revenue Agency, the Navy and the office of the President (interview, Appiah-Adu 22nd January 2014).

failures of other countries in petroleum governance,⁴⁷ and to gather stakeholder's views on the content of a national oil and gas policy and strategy. In an interview, the leader of the Technical Committee explained that: "We decided: Let's make noise. Let's let the people know that indeed we've discovered oil. And let's let people know that their voices and their views and opinions are important".⁴⁸ Various stakeholders within Ghana,⁴⁹ development partners and international petroleum and public sector experts from oil producing countries such as Kazakhstan, Norway, Timor-Leste, Canada, Nigeria and Trinidad and Tobago participated at the forum. Experts from Trinidad and Tobago were invited because they were thought to have good local content legislations, while experts from Nigeria thought about the weaknesses of their system.⁵⁰

During the national forum, Ghana's Ministry of Energy and Norway's Ministry of Foreign Affairs signed a Memorandum of Understanding (MoU)⁵¹ regarding their cooperation within the petroleum sector (Norad 2008, 55). This made Ghana a core country in the OfD program (Norad 2011a). The MoU states that the focus of the cooperation programme "shall be capacity building within Ghanaian state institutions relating to the exploration for and exploitation of oil and gas resources, revenue management and environmental protection, among others." It was decided that the cooperation would be focused on technical assistance as a means for capacity building in institutions. Central aims were a revision of the Petroleum Law of 1983 and development of regulations to the law. It is stated that "the parties will cooperate to ensure full transparency and accountability on the part of all institutions and persons involved in the Cooperation Programme" (ibid.). It was specified that Norway will make input into the policy making process in Ghana "when specifically asked" (ibid.). Norway should also assist Ghana's adoption of the Extractive Industry Transparency Initiative (EITI) and other anti-corruption measures. In regard to the drafting of the MoU, the leader of the Technical Committee expressed an appreciation of that committee's ability to influence the content of the MoU: "Norway actually told us: go

⁴⁷ Interview, World Bank official 2 (4th February 2014).

⁴⁸ Interview, Appiah-Adu (22nd January 2014).

⁴⁹ Opinion leaders, traditional rulers, politicians, academics, legislators, the government and development partners (interview, Appiah-Adu 22nd January 2014).

⁵⁰ Interview, World Bank official 2 (4th February 2014).

⁵¹ A MoU is not an internationally legally binding document, but a statement of intent.

and study the MoU. Whatever you are not happy with. Let us now, let us hear what you are not happy about, and we'll see what we can do about it. And thus we saw a partner who was willing to bend backwards to work with us".⁵²

Based on the needs assessment at the national forum, the traditionally important donors in Ghana gathered for a donor conference.⁵³ Discussions concerned how to coordinate petroleum related aid towards the Ghanaian government. There was a mapping of who wanted to contribute with different kinds of assistance (Dypedokk 2011, 80).

Following the national forum and the signing of the MoU, representatives from the Oil and Gas Technical Committee visited Norway on several occasions to undertake training for the drafting of a petroleum policy. Lectures were held at Petrad and Statoil, and field trips were organized to various parts of the petroleum industry in Norway.⁵⁴ During 2008, Norway assisted Ghana in the development of a petroleum policy and a master plan for developing of the sector. Norway also provided technical assistance in evaluating field development plans and a so-called unitization agreement for the Jubilee Field (Norad 2011a, 36).⁵⁵

In response to why Norway was chosen as the main development partner the above mentioned leader of the Technical Oil and Gas committee, Appiah-Adu pointed to the fact that individuals in Ghana previously had positive experiences with training within petroleum management in Norway.⁵⁶ A GNPC official in the Technical Committee had strongly recommended choosing Norway as the preferred partner, based on personal experiences with training in Norway. The perception that Norway had a good, or "the best", international reputation in managing oil resources was also pointed to. Another factor emphasized was the flexibility and lack of conditions on behalf of the Norway as a donor.

⁵² Interview, Appiah-Adu (22nd January 2014).

⁵³ The UK, Germany, the World Bank, IMF, USAID as well as Canada and Japan were present (Dypedokk 2011, 80).

⁵⁴ Interviews, Appiah-Adu (22nd January 2014) and World Bank official 2 (4th February 2014).

⁵⁵ Assistance was also provided on reviewing the Jubilee Environmental and Social Impact Assessment. The research vessel Dr. Fridtjof Nansen carried out Marine environmental surveys by in 2009. Assistance was given for the application to the UN on extension of the continental shelf beyond 200 nautical miles (Norad 2011a, 54).

⁵⁶ The Norwegian government has provided assistance and training in petroleum management since the 1980s (cf. section 2.3).

At the end of the day we had the World Bank knocking on our door, with it's other, you know, interested parties such as [...] GIZ from Germany, DFID from the UK as all of that. The Japanese and so on and so forth. But the Norwegians were more proactive, more forthcoming, easier to deal with, not much of, you know, strings and conditions attached, etc.⁵⁷

Appiah-Adu further emphasized that:

That was what gave us the comfort to go with Norway [...] it was [...] a sentiment that ran through the Technical Committee, the Ministerial Committee, to the president, the highest level. [...] And there is something about Scandinavians. In the world, [...] when you look at transparency, you look at no agenda, no strings attached and all that.⁵⁸

The government thus chose a “two stream approach” (ibid.) with Norway as the main donor and the others “on the sideline”.

In January 2009, there was a change in government from the New Patriotic Party (NPP) to the National Democratic Congress (NDC). In response to why Norway was chosen a main development partner, an advisor within the Ministry of Energy (MoE) of the new (and current) government pointed to similar factors as Appiah-Adu. This exemplified by the following statement: “The beauty of the Norwegian [...] cooperation is that we are in the driving seat. For the other ones, they want to take control and we are not very comfortable with that”.⁵⁹ Other donors had suggested incorporating conditions about for example liberalization of the energy sector into their Multi-Donor budget support (MDBS)⁶⁰ to the government.⁶¹ The MoE advisor emphasized that the government is first and foremost accountable to the Ghanaian public for public policy, not to the donors. The government was also convinced that Norway did not need anything from Ghana and they were therefore not concerned about double agendas.⁶²

⁵⁷ Interview, Appiah-Adu (22nd January 2014).

⁵⁸ Interview, Appiah-Adu (22nd January 2014).

⁵⁹ Interview, representative from MoEP (6th February 2014).

⁶⁰ Multi-Donor Budget Support (MDBS) is a joint support mechanism to the Government of Ghana from eleven Development Partners: the African Development Bank, Canada, Denmark, the European Union, France, Germany, Japan, the Netherlands, Switzerland, UK and the World Bank. The contributed financial resources are directly channeled into the Government's treasury to complement Ghana's domestically generated revenues. (Ministry of Finance, Republic of Ghana <http://www.mofep.gov.gh/?q=divisions/mdbs>).

⁶¹ Interview, representative from MoEP (6th February 2014).

⁶² Interview, Appiah-Adu (22nd January 2014).

5.3 Consolidation of civil society advocacy

According to Heller and Heuty, the debate around oil in Ghana has been vigorous, attracting the attention of all elements of Ghanaian society (2010, 54). The national forum was criticized by representatives from a number of civil society organizations (CSOs), because CSO participation was restricted to three representatives (Gary 2009; Dypedokk 2011, 72).⁶³ A leading civil society organization, Integrated Social Development Centre (Isodec) criticized Norway for not engaging civil society in the initial phase when they were giving advice to the Ghanaian government. In an interview Steve Manteaw from Isodec⁶⁴ expressed concern for the lack of insight they were given to which advice Norwegian officials were giving “their” government:

The reason that [lack of insight] is dangerous is that [...] you will be undermining the social contract, because government must first and foremost hold themselves accountable to their citizens. [...] And so if they talk to our government and they don’t talk to us, when we are the ones who elected the government, then they are undermining our democratic processes in this country.⁶⁵

As a response to their weak representation at the national forum, some CSO representatives collaborated with the German government development agency GIZ⁶⁶ to advocate for a larger civil society representation at the national forum, without success. Thus, GIZ, Revenue Watch Institute and other donors funded a civil society preparatory meeting ahead of the conference in order to gather views representative of a larger civil society. Oil and gas experts from African oil producing countries and beyond were invited to lecture about experiences with petroleum governance. The preparatory conference became known as the Mankessim Consensus.⁶⁷ Later, representatives from Isodec travelled to Stavanger in Norway to study oil and gas governance. The study trips were funded by OfD through Publish What You Pay Norway, The Norwegian Confederation of Trade Unions (LO) and Norwegian Church Aid.⁶⁸ This mobilization and building up of expertise laid the ground for the formation of a coordinated Ghana Civil Society Platform on Oil and Gas in March

⁶³ These were representing Isodec, Third World Network-Africa and Ghana Trades Union Congress. The ISODEC representative was mandated to facilitate discussions without the opportunity to express his own views (interview, Manteaw 17th January 2014).

⁶⁴ And the current chair of Ghana Civil Society Platform on Oil and Gas.

⁶⁵ Interview, Manteaw (17th January 2014).

⁶⁶ GIZ stands for Deutsche Gesellschaft für Internationale Zusammenarbeit.

⁶⁷ Interview, Manteaw (17th January 2014).

⁶⁸ Interview, Manteaw (17th January 2014).

2010, chaired by Isodec and partly funded by the World Bank. The platform consists of 120 organizations, individuals and professional bodies (Zandvliet 2014). Gyimah-Boadi and Prempeh claim that “the advent of oil has galvanized Ghana’s normally splintered civil society into collective action” (2012, 97). Below, I return to the platform’s specific efforts to influence regulatory reform in the petroleum sector.

5.4 Formalizing the OfD cooperation: 2009-2010

Though the Norwegian government had provided significant assistance to Ghana during 2008, the cooperation has not yet been formalized through legally binding agreements. The change of government in January 2009, led to a halt in the cooperation between Norway and Ghana. E-mail correspondences between Norwegian government officials around this time⁶⁹ testify that the new Minister of Energy, Joe Oteng-Adej, had completely written off the OfD cooperation. In various e-mail correspondences, this decision is accredited to a lack of trust in deals negotiated under the previous government. The cooperation was however reconfirmed around September 2009. In the minutes of a meeting between the deputy minister of Energy and a Norwegian embassy official (3.11.2009), the former reportedly claimed that “the Norwegian model is the best to draw experiences from and is a model the current government is extremely comfortable with”. In the same meeting, the deputy minister also initiated a discussion about the establishment of a Norwegian embassy in Accra. In a meeting between Norwegian officials and GNPC (4.11.2009), GNPC officials express their apologies for their lack of communicative response during the past months and explaining that this was due to “adjustments to the change in national leadership.” In the minutes from a meeting between a Norwegian embassy official and a World Bank official (5.11.2009), the latter expresses that the Ghanaian government appears to be more comfortable with Norway than with other development partners. The fact that Norway again was the government’s primary preferred partner is supported by numerous meeting minutes and e-mail correspondences between Norwegian and Ghanaian government officials throughout the period 2009-2010.

During 2010, Norway provided comprehensive technical assistance to GNPC, the Ministry of Energy (MoE) and the Environmental Protection Agency (EPA). GNPC

⁶⁹ Documents I gained access to at the archives at the Norwegian Embassy in Accra.

and MoE received training in international practices of resource management (Scanteam 2013, 32). Extensive assistance was given to the MoE in drafting The Petroleum Commission Bill and The Petroleum Exploration and Production Bill (Norad 2011b). There was no Norwegian embassy in Accra at the time of entering the cooperation. A Norwegian embassy was however established in 2011. Prior to this the follow-up was mainly done from The Norwegian in Abuja, Nigeria.

On December 10th 2010, 5-year cooperation agreements were signed between the Norwegian Ministry of Petroleum and Energy (MoPE) and the Ghanaian MoE,⁷⁰ and between the Norwegian Ministry of the Environment (MoE) and the Ghanaian Ministry of Environment, Science and Technology (MEST) (Scanteam 2013, 35). Later in December 2010 the first oil started flowing from the Jubilee Field. The cooperating agreements were based on a program document that states what the partners aim to achieve through the cooperation, as well as a budget. The Norwegian counterparts will give feedback on the program document and suggestions for alterations, but the guiding principle is that the document is developed and owned by the recipient.⁷¹ An OfD official responsible for government contact, Arne Olsen, explained that the reason it took three years to establish legal agreements was the need to “get to know Ghana” and “to give Ghana an opportunity to find out what they actually wanted”.⁷²

OfD has entered into a partnership with the World Bank whereby the two have made a division of which type of assistance they provide. The Bank mainly finances capital items, while Norway provides human resources, training of staff and consultancy work.⁷³

The 5-year agreements between Ghana and Norway end December 2014. The Ghanaian MoEP has applied for a second period of cooperation through OfD.⁷⁴ The Chief Executive of PC has also informally requested to have long-term consultants from Norway to provide day-to-day training for the staff at the PC.⁷⁵ Whether OfD

⁷⁰ Later renamed the Ministry of Energy and Petroleum

⁷¹ Interview, Olsen (13th January 2014).

⁷² Interview, Olsen (13th January 2014).

⁷³ Interview, Olsen (13th January 2014).

⁷⁴ Interview, representative from MoEP (6th February 2014).

⁷⁵ Interview, Solheim (4th February 2014).

welcomes the request for a second phase of cooperation will be based on a review of the level of goal attainment achieved in the previous phase, and an identification of future needs for assistance. This assessment is carried out as a joint review where both Norwegian and Ghanaian counterparts determine its terms of reference and approve the final report.⁷⁶ When finalized, the report is presented before the OfD steering committee (cf. section 2.3) who takes a final decision on whether the cooperation will be continued. The following table shows annual spending in the OfD program in Ghana:

Table 5.1 Spending figures, OfD in Ghana⁷⁷

Year	NOK
2008	N/A
2009	8,300,000
2010	15,600,000
2011	36,000,000
2012	24,791,000
2013	N/A

Source: Norad, 2010, 2011, 2012.

⁷⁶ Interview, Solheim (4th February 2014).

⁷⁷ The table show total expenditures in the OfD program in Ghana, not exclusively directed towards the Petroleum Commission.

6 Regulatory Reform

In June 2011 the Petroleum Commission Act was passed in Parliament. Norwegian legal practitioners had assisted in drafting the bill. The Act established The Petroleum Commission (PC) as the independent regulator of the upstream segment of Ghana's petroleum industry. The act states that the PC shall regulate and manage exploitation of petroleum resources and coordinate policies in relation to them. The regulatory function was previously mandated to the Ministry of Energy by The Petroleum Exploration and Production Act of 1984. The regulatory function had however been delegated and practiced by GNPC, as the ministry lacked the capacity. The PC's first board was appointed November 2011 (Daily Graphic 2011). Evidence suggests that the PC has encountered some start-up challenges, and time is still needed for the institution to be fully functional. In the following section I will describe the process leading up to the establishment of the PC, while section 6.2 gives an account of the PC's functions and structure.

6.1 Actors influencing reform

The process leading up to the establishment of the PC was subject to some controversy and debate, broadly characterized by two schools of thought.⁷⁸ The reform meant taking away regulatory responsibility from GNPC, which had been the locus for government expertise in the petroleum sector.⁷⁹ In the view of many, GNPC's consolidated structure created a conflict between commercial and regulatory interests (Gary 2009). At the national forum in February 2008, there had been a near consensus among the international petroleum experts that regulatory and commercial functions within petroleum management should be separated (Gary 2009, 38). Experts pointed to negative experiences of countries such as Angola, where consolidated NOCs had become an "unaccountable state within the state" (Gary 2009, 38). Donors such as the World Bank and GIZ advocated the stance that GNPC should not be playing commercial and regulatory roles simultaneously, to avoid conflicts of interest (Gary 2009, 39). GNPC expressed reluctance towards the idea of a decoupling at the

⁷⁸ Interview, Manteaw (17th January 2014).

⁷⁹ At one point their staff amounted to 700 employees, but is now reduced to around 100. A GNPC official stated in an interview with Oxfam that GNPC "wears a lot of hats" and does a lot of things we are not supposed to do" (Gary 2009, 38).

national forum. GNPC director of operations, Thomas Manu, argued that the roles should rather remain consolidated (Gary 2009, 38).

There seems to have been a hesitation towards this separation of roles among higher government officials.⁸⁰ People who were close to president Mills, including the presidential advisor on petroleum, Tsatsu Tchikata, argued for a consolidated model pointing to Angola's NOC Sonangol.⁸¹ It was claimed that GNPC should be responsible for regulation, as they had the experience and the expertise.⁸²

During summer 2010, the cabinet approved a new Petroleum Exploration and Production Bill intended to replace the one from 1984 (cf. section 5.1). The bill stated "The Minister responsible for petroleum shall regulate petroleum operations" (Government of Ghana 2010). The bill was withdrawn from Parliament in November 2010 (Heller and Heuty 2010, 51). Heller and Heuty commented that "the [Exploration and Production] Bill failed to reflect the vibrant debate taking place both internationally and within Ghana on oil-sector governance" (2010, 50) and that "the bill provided for excessive levels of discretion on part of the Ministry of Energy and GNPC" (2010, 51). The bill had been written without any Norwegian influence.⁸³ According to a Norwegian OfD official the bill was refuted partly due to low legal quality.⁸⁴ Another important reason were arguments saying that the bill was inconsistent with article 269 of the constitution, demanding the establishment of separate institutions (commissions) for the regulation of natural resources (cf. the introductory section of this chapter) (Heller and Heuty 2010, 51).

Norway was subsequently asked to assist in creating a new Petroleum Exploration and Production Bill.⁸⁵ During the legislative review process that followed, government allowed for citizen's participation through public forums and consultations. The Civil Society Platform on Oil and Gas organized stakeholder consultations, sponsored by The World Bank, where views on regulation were

⁸⁰ Interviews, World Bank official 2 (4th February 2014) and Manteaw (17th January 2014).

⁸¹ Interview, Manteaw (17th January 2014).

⁸² Interview, World Bank official 2 (4th February 2014).

⁸³ An OfD official expressed that this was "strange" since the cooperation was already established. But the drafting had been going on when there was not much contact between Norway and Ghana.

⁸⁴ Interview, Olsen (13th January 2014).

⁸⁵ Interview, Olsen (13th January 2014).

gathered.⁸⁶ Consequently, the platform submitted numerous analyses and papers to the government promoting a separation of regulatory and commercial roles.⁸⁷ The Civil Society Platform on Oil and Gas argued that there were governance risks associated with ministerial regulation of the industry, due to a high possibility of politicization of the industry, corruption, rent seeking behavior and regulatory capture (Ghana Civil Society Platform on Oil and Gas 2011, 8). A World Bank official explained “whatever comes out of [such CSO stakeholders consultations] feed into what we do.” The World Bank is focused on empowering civil society organizations in order to hold government accountable. Among other things they support legislative research, so CSOs can understand the legal frameworks and enter into policy dialogue with government.⁸⁸ The World Bank official claimed there is a realization in the World Bank that they are seen as an external body, which is dependent on engaging with civil society groups to gain acceptance from the government.⁸⁹

On 20th December 2010 the World Bank approved a US\$38 million credit to the Government of Ghana for implementing an Oil and Gas Capacity Building Project, a so called “technical assistance loan” (Santley 2013). Among the main objectives of the program are to “improve public management and regulatory capacity while enhancing transparency” (Santley 2011). In a project document it is stated: “The potential conflict of interest and lack of transparency arising from the multiplicity of GNPC’s roles present a challenge for the sector.” Part of the funds had a “disbursement condition on satisfactory establishment of a future petroleum regulatory body” (The World Bank 2010). In a press release the Work Bank stated:

Specifically the Project will provide institutional support to the Ministry of Energy and the soon-to-be-established petroleum regulatory body to enable them play their oversight, coordination, policy planning and implementation as well as monitoring and evaluation roles effectively (World Bank 2010).

The project is implemented by a Project Coordination Unit at the Ministry of Energy and Petroleum (The World Bank 2010) and the credit is supposed to be disbursed over a period lasting until June 2015. Roughly speaking, the World Bank provides two types of financial support to Ghana: project support, such as the Oil and Gas

⁸⁶ Interview, World Bank official 2 (4th February 2014).

⁸⁷ Interview, Manteaw (17th January 2014).

⁸⁸ Interview, World Bank official 2 (4th February 2014).

⁸⁹ Interview, World Bank official 2 (4th February 2014).

Capacity Building Project, and budget support (an annual credit). For certain parts of the budget support to be released in a certain year, the recipient government needs to fulfil certain “trigger actions”. One of the trigger actions demanded for budget support disbursement in 2012, was that “The Government, through the Ministry of Energy, submits to Cabinet for decision a policy proposal establishing a petroleum regulatory authority” (World Bank 2011). The World Bank official explained “[...] there was a conflict. So the bank thought that [...] the two needs to be decoupled and separated. So that was the reason for pushing for it”.⁹⁰ The same official explained that the background for incorporating this condition was that “everybody was pushing for that decoupling”, civil society groups and all stakeholders were talking about it, but “the government is doing nothing”.⁹¹

The first Petroleum Commission Bill was presented before Parliament in December 2010 (Heller and Heuty 2010, 52). In the bill, GNPC was to serve on the governing board of Commission.⁹² The Civil Society Platform on Oil and Gas persuaded Parliament to reject the provision that GNPC should sit on board, arguing that this constituted a conflict of interest (Gyimah-Boadi and Kwasi Prempeh 2012, 99).

The new Petroleum Commission Bill was developed in few weeks’ time early 2011, and approved in Parliament in June. An OfD official involved in the drafting process explained: “Commissions is something Ghana already knows about. So it was relatively easy to get it though. It wasn’t like: now we’re going to see how Norway did it”.⁹³ The same official explained that Norwegian officials had conveyed to the Ghanaian counterparts that the reason things has worked well in Norway was that the most important roles in petroleum management had been separated between the national oil company, policy maker and regulator. He further emphasized that the idea of a Petroleum Commission was essentially Ghanaian.⁹⁴

For the sake of further illustrating how the World Bank has influenced policy and legislation in Ghana’s petroleum sector, it is worth mentioning that conditions for

⁹⁰ Interview, World Bank official 2 (4th February 2014).

⁹¹ Interview, World Bank official 2 (4th February 2014).

⁹² Interviews Amin (20th January 2014) and Manteaw (17th January 2014).

⁹³ Interview, Olsen (13th January 2014).

⁹⁴ Interview, Olsen (13th January 2014).

receiving government budget support (agreed upon in 2010) included the “submission of a Petroleum Revenue Management Bill to the Cabinet based on broad consultations with stakeholders”, and submission to Cabinet for decision a revised Extractive Industries Transparency Initiative (EITI) institutional framework to include the oil and gas sectors” (World Bank 2011). These conditions were developed in cooperation with the Civil Society Platform on Oil and Gas (Ghana Civil Society Platform on Oil and Gas 2011, 35). All these conditions were met by government. Steve Manteaw from Isodec, explained that CSOs in Ghana have traditionally been critical towards World Bank conditionalities, and this was the first time the World Bank and CSOs had attained such cooperation in Ghana.⁹⁵ In 2013, Ghana’s budget support from the World Bank was not disbursed due the government’s lack of fulfilment of trigger actions.⁹⁶

6.2 The Petroleum Commission and the Petroleum Directorate

Apart from aiding the legislation of the Petroleum Commission Act, OfD aims to provide assistance to enhance the capacity of the institution. Prior to the establishment of the PC, a training program was organized in Norway where experiences were shared on how typical petroleum regulatory functions had been carried out in Norway (Scanteam 2013, 33). The main instrument to fulfil the goals in OfD’s resource pillar (cf. section 2.3) is institutional cooperation with relevant Norwegian government institutions: The Norwegian Ministry of Petroleum and Energy and the Norwegian Petroleum Directorate. In addition, the Stavanger-based foundation Petrad serves an advisory and administrative role (Scanteam 2013, 29). Part of the 5-year institutional agreement between Ghana and Norway’s respective ministries of energy and petroleum (see section 5.4), is an institutional cooperation between the Norwegian Petroleum Directorate and Ghana’s PC. The institutional cooperation involves that the NPD provide consultants for training and assistance for drafting the legal instruments for regulation. The NPD has provided training courses in Ghana and assistance on drafting supplementary regulation for the specific areas under the PC’s regulatory responsibility.

⁹⁵ Interview, Manteaw (17th January 2014).

⁹⁶ Interview, World Bank official 2 (4th February 2014).

In the start-up phase the PC was lacking funds. Much time was spent acquiring and settling in a permanent office building. The World Bank has supported the PC's operational costs, mostly for rent expenses for temporary office space, as well as office equipment and furniture through the Oil and Gas capacity Building Project (The World Bank 2013, 4). Appointing staff and establishing routines has been time consuming. The World Bank funds were used for initial training to help build capacity of staff in 2012⁹⁷.

6.3 Functions and structure of the Petroleum Commission

The Petroleum Commission Act established the PC as a separate legal body. The Act emphasizes that no other institutions should perform functions related to regulation and management of the resource:

Subject to other provisions of this Act, a Government agency or authority shall not exercise any function in relation to the regulation and management of the utilization of petroleum resources and co-ordination of policies in relation to that function (Petroleum Commission Act 2011, section 24, part 3).

Regulatory role

A main part of the PC's mandate is to ensure that contractors, subcontractors and others involved in petroleum activities comply with applicable laws and regulations (Petroleum Commission Act 2011, section 3, part c). The specific regulations are to be defined through subsidiary legislation of "legislative instruments" (LIs), which are the common instruments for regulation among regulatory agencies in Ghana (Aryeetey 2004, 298). The LIs specify which rules the companies must follow, and corresponding penalties for noncompliance. In July 2013 the first LI for the PC was passed in Parliament: The Local Content Law. "Local content" refers to the level of Ghanaian employment in the petroleum industry. The local content legislation was largely influenced by Trinidad and Tobago's model of local content.⁹⁸ Further LIs are in the process of being developed for areas under the PC's regulatory mandate.

The cooperation arrangement with the NPD has largely been focused on the drafting of these subsidiary legislations for regulation. Apart from the already mentioned local content regulations, the main areas of regulation are: fiscal metering, health, safety,

⁹⁷ Interview, World Bank official 2 (4th February 2014).

⁹⁸ Interview, Amin (20th January 2014).

security and environment (HSSE), as well as regulations on petroleum data and drilling. Four corresponding teams have been established at the PC, to work on the drafting laws for these areas of regulation. Each team has corresponding Norwegian partners guiding the group in drafting the regulations”.⁹⁹ A PC official expressed that “There has been an awareness that Norway has one of the world’s best practices. [...] The laws we are passing for the PC are strictly formed after the Norwegian model”.¹⁰⁰ Another PC official expressed that “this was where we had a lot of Norwegian influence, in regards to these particular regulations”.¹⁰¹ The NPD has organized numerous workshops on petroleum regulations in Accra, as well as providing continuous reviews of draft regulations. When the teams have completed their law drafts, they are processed by the MoEP, the Attorney General and finally presented to Parliament for approval.¹⁰²

A PC official explained that the PC already has preliminary monitoring and evaluation systems in place for most areas of regulation. Operators have a requirement to report quarterly on their performance to the PC. These reports are audited by the PC. If they discover non-compliance with applicable regulations, they demand the operators to remedy the violation. The PC also conducts expected and uninspected inspections at facilities. In 2013 one such inspection revealed non-compliance with safety standards. The companies were given three weeks to rectify the violation. Two companies were unable to do this, whereby the PC had their operations temporarily halted.¹⁰³

The above mentioned Local Content Law is aimed at ensuring local industry participation in petroleum activities. It demands that “A contractor, subcontractor, licensee, the Corporation [GNPC] or other allied entity carrying out a petroleum activity shall ensure that local content is a component of the petroleum activities [...]” (Local Content Law 2013, section 3). The law defines specific rules for local industry participation in Ghana’s petroleum sector, including a demand for minimum 5 % equity participation of an indigenous Ghanaian company (other than GNPC) to be qualified to enter into a petroleum agreement or license (Local Content Law 2013,

⁹⁹ Interview, PC official 2 (31st January, 2014).

¹⁰⁰ Interview, government official (2nd February 2014) (paraphrased).

¹⁰¹ Interview, PC official 2 (31st January, 2014).

¹⁰² Interview, PC official 2 (31st January, 2014).

¹⁰³ Interview, PC official 3 (6th February 2014).

section 4, part 2). In the proceeding sub-section of the law it is stated that “despite subregulation (2)” the minister may vary this requirement if a Ghanaian company is unable to satisfy requirements. In that case the minister shall determine “the persons qualified” (Local Content Law 2013, section 4, part 3–2). According, previous coordinator of the Civil Society Platform on Oil and Gas and current director of African Centre for Energy Policy (ACEP), Mohammad Amin, two contracts were approved after the passing of the Local Content Law, where one had 2, 5 % Ghanaian equity, while the other had none.¹⁰⁴

The Local Content Law establishes requirements that the oil companies provide reports to the PC, and the PC is mandated to monitor and inspect the oil companies. Operators have to submit a local content plan for the PC’s approval before they can undertake any activity. The law provides for penalties in form of monetary fines or imprisonment, depending on the severity of offense. In an interview a PC official expressed: “The local content law gives us teeth to bite”.¹⁰⁵ According to the Petroleum Commission Act, a person who is aggrieved by the decision of the PC may file a complaint to the ministry, whereby the minister will take a decision on it.¹⁰⁶ If the person is dissatisfied with the ministers’ decision, the person can apply to the Court for a review of that decision (Petroleum Commission Act 2011, section 20, part 1–3).

The PC must publish an annual public report on petroleum resources and activities in Ghana. The Petroleum Commission Act gives a detailed account of which information the annual report should contain (2011, section 3k).

Advisory role

An important function of the PC is to advise the ministry on “national policies related to petroleum activities” (Petroleum Commission Act 2011, section 3, part b) and “matters related to petroleum activities including [...] field development plans

¹⁰⁴ Interview, Amin (20th January 2014).

¹⁰⁵ Interview, government official (2nd February 2014) (paraphrased).

¹⁰⁶ Mohammad Amin was highly critical to this provision in the Petroleum Commission Act. He claimed it was widely discussed and debated when the law was to be passed (interview, Amin 20th January 2014).

[...]”(Petroleum Commission Act 2011, part 3, section j).¹⁰⁷ The Petroleum Commission Act states that “six months after the commencement of this Act, the Ghana National Petroleum Corporation shall cease to exercise any *advisory* function” in relation to the above mentioned areas within the PC’s responsibility (2011, section 24, part 2, my emphasis). Nonetheless, GNPC is still exercising an advisory role. This may be exemplified by the process leading to the approval of the field development plan for the TEN development project, a cluster of three oil fields developed as an integrated project, located 25 kilometers from the Jubilee Field.¹⁰⁸ The partners licensed to develop the project submitted their Plan of Development (PoD)¹⁰⁹ to the Ministry of Energy and Petroleum in November 2012. It was approved by government in May 2013. During that time span, both the GNPC and the PC were evaluating the PoD, and the main bulk of advice was provided by GNPC.¹¹⁰ GNPC has seconded a number of advisors to the PC, who did thorough evaluations of the PoD based on negative lessons from the Jubilee Field development. The evaluators raised objections on a number of issues. The PoD was approved “subject to the comments of the PC”.¹¹¹ The perceptions of respondents from the PC and others were that important advice was not taken into account (though some aspects were changed according to the advice).¹¹² Further, the advice provided by GNPC and the PC was not differentiated, but rather “piled together”.¹¹³ The respondent I interviewed from the MoEP explained that advice from GNPC was welcome because they are partners in the field: “We are partners, GNPC represents us. So, with all the engineering works and all those things, GNPC is part of it. They advise the government, that this is the best way to go.”¹¹⁴ Several respondents expressed that the PC’s advisory role was

¹⁰⁷ As well as “(ii) plans for the development of petroleum transportation, processing and treatment facilities and (iii) decommissioning plans for petroleum fields and petroleum infrastructure” (Petroleum Commission Act 2011, section 3j).

¹⁰⁸ It is called “TEN” because it is a collective development of three hydrocarbon accumulations: Tweneboa, Enyenra and Ntomme.

¹⁰⁹ Synonymous with “field development plan”.

¹¹⁰ Interviews, Amin (20th January 2014), PC official 1 (29th January 2014) and PC official 2 (31st January 2014).

¹¹¹ Interviews, government official (3rd February 2014) and PC official 3 (6th February 2014).

¹¹² Interviews, PC official 1 (29th January 2014), government official (3rd February 2014), PC official 3 (6th February 2014), representative from MoEP (6th February 2014) and Amin (20th January 2014).

¹¹³ Interviews, PC official 1 (29th January 2014) and representative from MoEP (6th February 2014).

¹¹⁴ Interview representative from MoEP (6th February 2014).

weak because they are still developing their capacity,¹¹⁵ while others claimed they are more or less ready and that the dual advice creates duplication and a waste of effort.¹¹⁶ The PC has requested that the Norwegian Petroleum Directorate focuses on PoD evaluations in their next set of courses.¹¹⁷ With reference to the lack of consideration for the PC's technical advice, ACEP director Mohammad Amin claimed that "these are some of the ways that the Petroleum Commission is being made a laughing stock of its own".¹¹⁸

Finances

The PC is supposed to be financed by funds provided by Parliament, by funds the Commission earns by levying fees on the regulated industry and by donations (Petroleum Commission Act 2011, section 14, part 1 a–c). The latter is the basis for the PC's internally generated fund. The PC's funds shall be deposited into a bank account "for the purpose opened by the Commission with the approval of the Controller and Accountant-General" (Petroleum Commission Act 2011, section 14, part 2). The expenses of the PC shall be covered by the three mentioned sources of funding (2011, section 16).

When it comes to acquisition of property, the Act states that "the costs shall be borne by the Commission" (2011, section 1, part 2). The Act does not mention whether the PC can take up loans. However, the PC took up a commercial bank loan to acquire its current office building. The Civil Society Platform on Oil and Gas expressed concerns that the PC will be financially dependent on government (Ghana Civil Society Platform on Oil and Gas 2011, 8). However, the main challenge respondents pointed to with regard to the implementation of the Petroleum Commission Act, was the institution's lack of funding from central government.¹¹⁹ Several respondents claimed that the PC would have had a quicker start, a bigger role in contracting processes and would have come further in developing their various regulations, if they had sufficient

¹¹⁵ Interviews, Olsen (13th January 2014), representative from MoEP (6th February 2014) and PC official 2 (31st January 2014).

¹¹⁶ Interview, PC official 1 (29th January 2014).

¹¹⁷ Interview, PC official 1 (29th January 2014).

¹¹⁸ Interview, Amin (20th January 2014).

¹¹⁹ In the seven interviews this topic came up, 6 respondents emphasized that this was a major challenge for the proper implementation of PC (namely PC official 1, 2, 3, government official, Amin and World Bank official 2). The respondent from MoEP disagreed, and claimed it was an issue of economic mismanagement.

funding to from the start. PC officials expressed that the lack of funds have delayed several of their activities.¹²⁰ In 2012 they were for example not able to audit companies registered as operating in the oil and gas industries, as they are mandated to do by the Petroleum Commission Act (2011, section 3e). The PC is dependent on hiring consultants for drafting the various regulations, something they have not been able to afford.¹²¹ When the PC was set up it was promised a startup capital from the government that did not materialize.¹²² Further, evidence suggests that the PC was not given *any* budgetary allocation in the national budget for 2012 (Odoi-Larbi 2013). Regulatory agencies in Ghana have generally had difficulties meeting their financial requirements and “suffer enormous logistical difficulties as a result of the limited funding that they receive from government” (Aryeetey 2002, 45). Due to high interest rates the down-payment on the mortgage is a big financial challenge for the PC.¹²³ Expenses for capacity building activities have been covered by the Oil for Development program and the World Bank Oil and Gas Capacity Building Project. The refurbishing of the current office building was financed by the World Bank loan, provided through the Oil and Gas Capacity Building Project

The PC aims to wean themselves of government support.¹²⁴ The PC has started charging some fees already for administrative services such as registration of companies operating in the petroleum sector.¹²⁵ When the PC’s remaining legislative instruments are passed, they will provide for imposition of regulatory charges on the companies. Companies will have to pay fees to the PC for a number of activities, for example to obtain permits to drill wells.

Agency head and governing body

The PC is governed by a board, to which the president appoints members. In appointing board members to the PC, the president shall “have regard to the person’s integrity, knowledge, expertise and experience in matters relevant to the functions of the Board.” The board should consist of a chairperson, the Chief Executive of the

¹²⁰ Interviews, PC official 1 (29th January 2014), PC official 2 (31st January 2014) and PC official 3 (6th February 2014).

¹²¹ Interview, PC official 3 (6th February 2014).

¹²² Interviews, PC official 1 (29th January 2014) and PC official 3 (6th February 2014).

¹²³ Interview, PC official 3 (6th February 2014).

¹²⁴ Interviews, PC official 1 (29th January 2014) and PC official 2 (31st January 2014).

¹²⁵ Interview, PC official 3 (6th February 2014).

Commission, a representative of the Institution of Geo-scientists¹²⁶ and a representative of the Environmental Protection Agency (EPA) and three other persons¹²⁷ (Petroleum Commission Act 2011, part 4, section 1–4). The president appoints the Chief Executive officer of the PC, who “shall be a person of high moral character and integrity with the relevant qualifications and experience related to the functions of the Commission” (2011, section 11, part 1–3). The PC’s first board was appointed in November 2011, where former Deputy Energy Minister, Dr. Kwaneba Donkor, was made Chief Executive (Daily Graphic 2011). In addition, the president can revoke the appointment of any member (2011, part 5, section 5).

The practice of presidential appointments to boards of public entities is enshrined in the constitution of Ghana (1992, article 70). Gyimah-Boadi and Prempeh argue that this practice leaves the Commission’s independence in doubt (2012, 100). The Civil Society Platform on Oil and Gas has expressed concerns that presidential appointments to the board of the PC will lead to political party patronage (Ghana Civil Society Platform on Oil and Gas 2011, 8). There was a general perception among respondents that presidential appointment to boards of commissions and other public entities in Ghana are generally based on political patronage as opposed to technocratic merit. This is exemplified by the following quote:

Almost invariably what we have seen in the past is that once a new government is formed, the new government would like to bring its people. I mean, it's a way of saying thank you to people who have helped you [...] get power [...] we put you on the board so you are collecting allowances, you get your money.¹²⁸

Respondents viewed this as less of a problem with regard to the PC, both because of the institutional representation that is ensured by the act, as well as an impression that the board members recruited do have expertise relevant to the PC’s areas of competence.¹²⁹ The chairman of the board for example, has long-term experience within the oil and gas sector.¹³⁰ The current Chief Executive, Theo Ahwireng, was appointed late 2012. He has a long lasting background from GNPC, and was by a PC

¹²⁶ Nominated by the institute.

¹²⁷ “at least one of whom is a woman” (Petroleum Commission Act 2011, section 4, part 1e).

¹²⁸ Interview, PC official 1 (29th January 2014).

¹²⁹ Interviews, PC official 1 (29th January 2014), PC official 2 (31st January 2014), government official (3rd February 2014) and PC official 3 (6th February 2014).

¹³⁰ Interview, PC official 3 (6th February 2014).

respondent perceived to have “no political connections in any way”.¹³¹ The president has also chosen to appoint the executive director of the civil society organization Isodec, as well as a person from the opposition party, to the PC board.¹³²

HR policy

When it comes to the appointment and management of regular human resources, the act only mentions that the president can appoint staff “that are necessary for the proper and effective performance” of the PC (Petroleum Commission Act 2011, section 13, part 1). Respondents from the PC said that the recruitment of staff so far, had been outsourced to a human resources (HR) consultancy.¹³³ All positions were advertised in newspapers with clear criteria of the qualifications needed. In line with the policy of the HR consultancy, position adverts did not say which institution the recruitment was for, merely that is for an organization “in the oil and gas sector”.¹³⁴ Going forward, the PC intends to maintain this HR policy, for the purpose of having a fair and transparent process and attaining staff based on merit. The respondents expressed that this policy counters political influence in HR matters, exemplified by this quote:

There is a tendency for a lot of influence. [...] If you want to do the recruitment directly here, there will be a lot of pressure on us. [...] from... maybe politicians here and there, and the people in the high places. [...]. They will call you, and they will have this person... they will bring the CV to you. [...]. So to avoid that problem, once you give it to the standard recruitment agency, it becomes fair and you can get very quality people.¹³⁵

According to the Petroleum Commission Act, the board may establish committees to perform various functions (2011, section 8, part 1). Members of the board and members of a committee of the board “shall be paid the allowances approved by the Minister in consultation with the Minister responsible for Finance.” (2011, section 9).

¹³¹ Interview, PC official 3 (6th February 2014).

¹³² Interviews, Olsen (13th January 2014), Manteaw (17th January 2014), representative from MoEP (6th February 2014) and PC official 3 (6th February 2014).

¹³³ Interviews, PC official 1 (29th January) and government official (3rd February 2014).

¹³⁴ Interview, PC official 3, (6th February 2014).

¹³⁵ Interview, PC official 3, (6th February 2014).

Decisional authority and reporting

The Chief Executive has the overall responsibility for the implementation of the decisions of the board and for the daily administration of the PC (Petroleum Commission Act 2011, section 12, part 1). The minister may however give directions to the board on matters of policy whereby the board shall comply (Petroleum Commission Act 2011, section 10, part 1). It is specified that “directions given by the Minister shall not adversely affect or interfere with the performance of the functions and exercise of the power of the Commission under this Act.” (Petroleum Commission Act 2011, section 10, part 2).

The accounts of the PC are to be audited by the Auditor General. The PC is required to keep accounting books which must be submitted to the Auditor General annually. The auditor general sends a copy of its audited report to the Minister of Energy and Petroleum (Petroleum Commission Act 2011, section 17, part 1–3). Ghana Auditing Service does not conduct performance audit. Respondents from the PC confirmed that Ghana Auditing Service has audited PC’s accounts for 2012 and 2013.¹³⁶

The PC must submit an annual report to the Ministry of Energy and Petroleum, describing the PC’s activities and operations in for the previous year, including the audited report by the Auditor General. The minister of Energy and Petroleum shall submit the annual report to Parliament one month after receiving it (Petroleum Commission Act 2011, section 18, part 1–4). The annual report is also made a public document. Respondents at the PC confirmed that the annual report for 2012 was produced and submitted to both ministry and Parliament, while work on the 2013 report appears to be in progress still.¹³⁷ “The Parliamentary Select Committee on Mines and Energy” is the main parliamentary committee to scrutinize the activities of the PC. According to a PC higher executive officer, the PC has regular meetings with the Parliamentary Select Committee on Mines and Energy to discuss and get approval for the PC’s work program and to discuss their performance.¹³⁸ The board must also submit any other reports the Minister may require in writing (Petroleum Commission

¹³⁶ Interviews, PC official 1 (29th January 2014), PC official 2 (31st January 2014), government official (3rd February 2014) and PC official 3 (6th February 2014).

¹³⁷ Interviews, PC official 1 (29th January 2014) and PC official 3 (6th February 2014).

¹³⁸ Interview, PC official 3, (6th February 2014).

Act 2011, section 18, part 4). The Petroleum Commission Act does not provide sanctions where the PC has violated their duty in any way. The respondent from MoEP however explained that “If they come and their reports are not good, they have not performed well, then the Parliament squeezes them, they don't give them enough money”.¹³⁹

When passed, the new Petroleum Exploration and Production Bill will also affect the mandate of the PC. After a long drafting process, with significant assistance from Norway, this bill is now approved by cabinet, and is awaiting eventual parliamentary endorsement. In the draft bill it is stated that “This bill is a further step towards [the strengthening of the legal and regulatory framework] and will firmly equip the [Petroleum] Commission with comprehensive legislation required to enable it effectively implement its constitutional mandate” (The Petroleum Exploration and Production Bill, 2013).¹⁴⁰ However, several respondents with whom I discussed this matter expressed concern that the new Petroleum Exploration and Production Bill will dilute the authorities of the Commission and divert more responsibility to the ministry.¹⁴¹ Respondents were worried that the ministry would be given responsibilities within petroleum resource *management*, while its mandate is to develop policy. The Petroleum Exploration and Production Bill contain a number of clauses where decisions are taken by “the Minister in consultation with the Commission”.¹⁴² One example is worth noting: In the Exploration and Production Bill there is a proposal to establish a local content fund, which should be managed by the minister and the local content committee of the PC. With regards to this, the ACEP director commented: “Management is an implementation issue. It is not a policy formulation issue. So why should the minister be responsible for the management of the fund?”¹⁴³

¹³⁹ Interview, representative from MoEP (6th February 2014).

¹⁴⁰ The draft bill is not made public, but I attained a physical copy from a PC official while he/she was attending a meeting in Oslo during spring 2014.

¹⁴¹ Interviews, Amin (17th January 2014), government official (3rd February 2014), World Bank official 1 (3rd February 2014), PC official 3 (6th February 2014).

¹⁴² I have not been able to analyze the bill draft in its entirety. If and when the law is passed, an in-depth analysis of its effects on the PC's independence would be valuable.

¹⁴³ Interview, Amin, (20th January 2014).

7 Analysis

In this chapter I aim to answer the four research questions formulated in chapter 1. Accordingly, the chapter is divided into four parts. The first three parts will constitute the evaluative analysis, addressing research questions 1-3. Here I will draw on empirical information from chapter 6, where the PC's organizational structure and functions were examined. The evaluative analysis is aimed at defining outcomes by applying theoretical categories to the empirical material. The assessment follows the same order as the numbered dimensions of the operational concepts, referring to tables 3.1 (independence), 3.2 and 3.3 (accountability). When labeling outcomes in the evaluative analysis I will refer to table 3.4, which made a fourfold differentiation between combinations of "formal" and "real" institutional change. That typology gave four possible outcomes along each dimension of independence and accountability respectively. The fourth and final part of this chapter is an explanatory analysis addressing research question 4, where I will draw on empirical information from both chapters 5 and 6.

7.1 Institutional independence

The first research question asks to what extent of the PC enjoys institutional independence. The proceeding assessment focuses on the four types of independence, with its combination of nine dimensions, as the concept was made operational in chapter 3 (section 3.1). The outcomes are summarized in tables representing each type of independence.

The PC certainly fulfils the first dimension of *legal independence* requiring that it is a separate entity by public law: The Petroleum Commission Act. Since the PC is also physically established as of late 2011, autonomy is regarded as high in both formal and real terms.

The second dimension of legal independence focuses on whether "relevant laws place the decision-making power with the agency head." According to the Petroleum Commission Act, decisional authority resides with the PC's governing board, and the Chief Executive is responsible for implementation of decisions. The minister of energy and petroleum may give directions on matters related to policy, but these

should not adversely interfere with the work of the PC. As the Ministry of Energy and Petroleum is responsible for developing policy, this is reasonable and not a considerable impediment towards the PC's decision-making power. Nevertheless, the empirical material raises concerns regarding the PC's decisional power in advising the ministry.¹⁴⁴ Even though the Petroleum Commission Act clearly states that GNPC should no longer play any advisory role towards the ministry (effective six months after passing the act), the corporation is still exercising that function. The fact that the government still asks GNPC for advice may be understood in light of the PC's start-up challenges and capacity needs. Though not necessarily representative of the government's position, a MoEP representative expressed that advice from GNPC was welcome and "the best way to go" since GNPC are partners in production. Although legally safeguarded, the PC's decisional power on providing advice to the Ministry of Energy and Petroleum appears to be diluted through this duplication of efforts.

The third dimension of legal independence concerns the extent to which relevant laws allow for ministerial interventions in the agency's decisions. Several respondents directed my attention towards ministerial discretionary powers in laws affecting the PC's mandate, namely the Local Content Law and The Petroleum Exploration and Production Bill. As described in section 6.3, the Local Content regulations determine that Ghanaian companies shall hold a minimum of 5 % equity in petroleum agreements or licenses. The minister of energy and petroleum is however vested with discretionary power to determine the persons (i.e. Ghanaian companies) qualified to hold such equity, and accordingly change the requirement of 5 % local participation. Evidence suggest that the minister has used this power to change the terms in at least two oil contracts approved after passing the Local Content Law. This provision for ministerial intervention reduces the PC's legal independence, in both formal and real terms (suggesting outcome 3 in table 3.4). As I will return to in the discussion of accountability of oil companies, the Local Content Law gives the ministry the mandate to overrule the PC's decisions regarding penalties for rule violation on behalf of oil companies. This gives scope for ministerial discretion in the management of regulations, which should clearly be under the PC's responsibility. Empirical evidence does not imply that this has been practiced so far. Nevertheless, this factor

¹⁴⁴ Decision-making power is here interpreted as placing *advisory authority* with the PC, as mandated by the Petroleum Commission act.

thus reduces the PC legal independence and weakens the PC's role as the enforcer of accountability from the industry.

Further, the Petroleum Exploration and Production Bill contain numerous clauses where decisions should be taken by the minister in consultation with the PC, in relating to *management* of the sector. This issue came forth in several interviews, and appeared important to various stakeholders. This may be exemplified by the proposed local content fund which is to be managed by the minister *and* the PC. This appears to dilute the decisional authority of the PC while providing discretionary powers to the Ministry of Energy and Petroleum. It is thus an impediment to legal independence along dimension 3 (cf. table 3.1). Management or implementation of policy is clearly a responsibility mandated to the PC by the Petroleum Commission Act. Since the Petroleum Exploration and Production Bill is still awaiting parliamentary approval, the analytical outcome remains inconclusive. The executive director of ACEP explained that his organization has sent analyses to the government, concerning areas in the Petroleum Exploration and Production Bill they believe will undermine the work of the PC. He claimed that "If they [the sections in the law] are not addressed then the Commission will become an appendix of the Ministry."¹⁴⁵ When the bill is passed into law, a thorough analysis of its impact on the PC's legal independence would be timely. As I will return to, the significant degree of ministerial interference in the PC's decisional powers provided by the Local Content Law and the Petroleum Exploration and Production Bill, provide the most significant impediment towards the PC's independence.

¹⁴⁵ Interview, Amin, (20th January 2014).

Table 7.1 Legal institutional independence

Dimensions	Outcome
(1) The agency is a separate legal entity by public law and is established by a parliamentary act	High: The PC is established as a separate legal entity by the Petroleum Commission Act (<i>high formal and high real legal independence</i>)
(2) The relevant laws place the decision-making power with the agency head	High: Decisional power regarding the PC's activities are placed with the governing board (<i>high formal legal independence</i>)
(3) Relevant laws minimize the scope for ministerial interventions	<p>Low: The MoEP is vested with the power to change the requirement of local content participation and determine local operators qualified to enter into a petroleum agreement or license by the Local Content Law (<i>low formal and low real legal independence</i>)</p> <p>Low: The MoEP is vested with the power to overrule the PC's decisions regarding penalties toward non-compliance with Local Content Regulations (<i>low formal legal independence</i>)</p> <p>Low: Clauses in the Petroleum Exploration and Production Bill open up for decisions to be taken by the MoEP in consultation with the PC. For example in management of the local content fund (<i>low formal legal independence</i>)</p>

The second type of independence concerns the degree of *financial dependence* on central government. The PC has two primary sources of funding: those provided by Parliament, and internally generated funds earned by levying fees on the regulated industry (in addition to donations). The PC does not seem to be financially dependent on government. This applies both in formal and real terms (suggesting outcome 1 in table 3.4).

The next dimension of financial independence focuses on whether the agency can earn incomes by other sources than central government. The PC can levy fees on the regulated industry, suggesting high financial independence along this dimension. The PC has already been able to develop some internally generated funds through registration fees etc., from companies operating in the petroleum sector. However, fees and charges will be further defined in the subsidiary legislations which have not yet been passed. This dimension of financial independence is thus considered high in formal terms but low in real terms (suggesting outcome 4 in table 3.4).

The PC also has the ability to take up loans: dimension 6 of institutional independence. This is exemplified by the commercial loan acquired to purchase its current office building. Thus, independence along this dimension is high in both formal and real terms (suggesting outcome 1 in table 3.4). The PC must also cover its own financial deficits (dimension 7). Therefore, the last dimension of financial independence may also be considered high in both formal and real terms. In summary, the financial independence of the PC is considered high along all four sub-dimensions.

Table 7.2 Financial institutional independence

Dimensions	Outcome
(4) A minor part of funding might stem from central government	High: A minor part of PCs funding stems from central government (<i>high formal and high real financial independence</i>)
(5) The agency is primarily funded by other sources than central government, e.g. by levying fees on regulated industry	High: The Petroleum Commission Act mandates the PC to levy fees on the regulated industry. Fees and charges regime is however yet underdeveloped (<i>high formal and low real financial independence</i>)
(6) The agency can take up loans	High: PC can take up commercial loans and has done so (<i>high formal and high real financial independence</i>)
(7) The agency must cover most of its deficits itself, e.g. by imposing budget constraints	High: PC must cover own deficits (<i>high formal and high real financial independence</i>)

The eighth dimension of independence looks to whether the agency head is appointed (and evaluated) by central government versus the governing board of the agency. The latter implies a high degree of independence. In accordance with the constitution of Ghana, the PC's Chief Executive officer and board members are appointed by the president. Gyimah-Boadi and Prempeh claim that "This practice leaves the [Petroleum] Commission's Independence in doubt" (2012, 100). This rings true according to the theoretical operationalization applied here. There is a concern that presidential appointments will enhance political party patronage, which based on the empirical material appears to be a general concern in appointments to other public entities in Ghana (see section 6.3). Respondents were under the impression that political patronage in board appointments was strong for other public entities, while PC's board, including its chief executive and chairman, were people with relevant technical expertise. Recalling the discussion in section 3.1, the appointment of respected public figures, non-aligned with politics, may advance agency independence where executive appointment of agency head and board is the case (Amundsen 2013b, 10). Due to presidential appointment of agency head,

independence along dimension 8 is somewhat reduced in formal terms. Independence is however advanced by the fact that the Chief Executive is perceived to be non-aligned with party politics implying high independence in *real* terms (suggesting outcome 4 in table 3.4).

Dimension nine focuses on whether members of the governing board are appointed by central government and if they are ensured fixed terms. The PC's independence is somewhat reduced by the fact that the president can revoke the appointment of any board member (including the Chief Executive officer). As mentioned, the president also appoints all board members. However, respondents emphasized that the PC seems more insulated from political patronage than comparable agencies, because the Petroleum Commission Act ensures that two board members are nominated by the Environmental Protection Agency and the Institution of Geo-physicists. Formal independence along this dimension is thus ensured to a certain extent. Formal independence is still impeded on, since the president is "free" to appoint the five remaining board members without regard to institutional representation, though their integrity and knowledge should be taken into account. As mentioned, respondents within the PC had the impression that the bulk of board members have relevant technocratic expertise. The current board chairman and Chief Executive were referred to as having long experience within the oil and gas sector. Furthermore, the government has appointed a person affiliated with the opposition party and the Executive director of the civil society organization Isodec as board members, even though these are not legal requirements. Board member independence thus seems well ensured in practice.

In summary, both formal and real independence is rather high regarding appointments to PC's board and agency head. Independence is low in the sense that the president appoints members, but advanced since the institutional representation is ensured. *Real* independence is further advanced since the board members in general appear to be selected based on technocratic expertise.

Table 7.3 Appointment of agency head and governing board

Dimensions	Outcome
(8) Agency head is appointed and evaluated by the governing board	High: Agency head is a presidential appointee, but perceived to have technocratic merit (<i>high real and low formal independence</i>)
(9) The board is appointed by actors outside central government and its members are secured fixed terms	<p>High: Board members are presidential appointees, but institutional representation of two board members may counter political patronage. Board members are perceived to have technocratic merit. A civil society representative and a person from the opposition party are appointed to the board (<i>high real and high formal independence</i>)</p> <p>Low: Board members can be revoked by the president (<i>low formal independence</i>)</p>

The final type of institutional independence concerns whether the PC has decisional powers in *human resources management*. In practice, the PC has managed its human resources through a HR consultancy. Evidence suggests that this is done according to high meritocratic standards. HR management independence thus appears to be high in real terms. However, the Petroleum Commission Act gives the president power to appoint staff necessary for proper and effective performance of the PC. In addition, the ministry determines the allowances for board members and members of committees that the board establishes. This suggests some impediment to HR management autonomy in formal terms (pointing to outcome 4 in table 3.4).

Table 7.4 Human resources management independence

Dimensions	Outcome
(8) Agency head is appointed and evaluated by the governing board	High: Agency head is a presidential appointee, but perceived to have technocratic merit (<i>high real and low formal independence</i>)
(9) The board is appointed by actors outside central government and its members are secured fixed terms	<p>High: Board members are presidential appointees, but institutional representation of two board members may counter political patronage. Board members are perceived to have technocratic merit. A civil society representative and a person from the opposition party are appointed to the board (<i>high real and high formal independence</i>)</p> <p>Low: Board members can be revoked by the president (<i>low formal independence</i>)</p>

7.2 Is the Petroleum Commission held accountable?

The second research question asked to what extent the Petroleum Commission is held accountable. In chapter 3 I argued that the analysis should focus on the PC's administrative accountability towards its sector ministry and associated parliamentary committee, as well as its financial and administrative accountability towards the auditor general. Administrative accountability was argued to be a type of top-down vertical accountability (cf. section 3.2). Administrative accountability is high where the sector ministry and parliamentary committee oblige "the agency to explain and inform about the processes whereby inputs are transformed to outputs." The outcomes identified in the proceeding analysis are summarized in tables 7.5 and 7.6.

The PC is required to provide a detailed annual rapport on its activities to the Ministry of Energy and Petroleum, which is then sent to Parliament for scrutiny. This annual report should contain a financial audit by the Auditor General. In addition, the annual report becomes a publicly available document, providing citizens and stakeholders with insight into the affairs of the PC. The Ministry may also demand written reports

from the PC board at any time. In addition, officials from the PC regularly meet with the Parliamentary Committee on Mines and Energy to discuss future prospects and past performance. These mechanisms strengthen the answerability aspect of accountability towards the ministry and Parliament and thus the PC's administrative accountability (dimensions 1 and 2 of accountability). The annual report for 2012 has been submitted, while the report for 2013 is a work in progress. These dimensions of accountability thus appear to be functional in both formal and real terms (suggesting outcome 1 in table 3.4).

Dimension 3 of accountability looks at the PC's administrative and financial accountability towards the Auditor General. Since the Ghana Auditing Service does not conduct performance audits, it does not enhance administrative accountability. As seen, the PC is held financially accountable by the Auditor General. Empirical findings suggest that financial auditing has been performed in practice. Financial accountability can thus be regarded as high in both formal and real terms (suggesting outcome 1 in table 3.4).

While dimensions 1-3 focus on the answerability aspect of accountability, dimension 4 concerns the enforcement dimension. Evidence suggests that Parliament can reduce the PC's budgetary allocation if its performance or reporting is unsatisfactory. There might be other enforcement mechanisms to punish bad conduct that are not uncovered by the empirical material.

Based on the above, there appears to be sound mechanisms in which to ensure the PC's administrative accountability towards the sector ministry and parliamentary committee, and financial accountability towards the Auditor General, in regards to answerability.

Table 7.5 Is the Petroleum commission held accountable?

	Dimensions	Outcome
Answerability	(1) The sector ministry obliges the agency to explain and inform about the processes whereby inputs are transformed to outputs (vertical, administrative accountability)	High: The PC is required to provide a detailed annual rapport on its activities to the MoEP, which is then sent to Parliament for scrutiny (<i>high formal and high real administrative accountability</i>) High: PC is held financially accountable by the Auditor General by law and in practice (<i>high formal and high real horizontal administrative accountability</i>) Low: Ghana Auditing Service does not conduct performance audit (<i>low formal and low real horizontal financial accountability</i>)
	(2) Relevant parliamentary committee(s) obliges the agency to explain and inform about the processes whereby inputs are transformed to outputs (horizontal, administrative accountability)	
	(3) The Auditor General obliges the agency to explain and inform about their financial conduct (horizontal, financial accountability) and their performance (horizontal, administrative accountability)	
Enforcement	(4) The sector ministry/relevant parliamentary committee/auditor general imposes sanctions on the agency when they have violated their duties	Inconclusive

7.3 Does the PC hold oil companies accountable?

Chapters 1 and 2 argued that an important aim of petroleum regulatory reform is to ensure accountability from oil companies. The third research question therefore asked to what extent the PC keeps the operators in the petroleum industry accountable. The PC plays an important function in keeping the oil companies accountable to the government and thus indirectly to the people of Ghana. The Petroleum Commission Act states that the PC shall safeguard compliance with laws and regulations, and also receive information from contractors as provided for under applicable laws and regulations. The first factor concerns the enforcement aspect of accountability, while

the second factor deals with the answerability aspect of accountability (dimensions 5 and 6 in table 3.3). The results from the below analysis are summarized in table 7.3.

In order for the PC to be fully able to exercise its regulatory functions, subsidiary legislations are required. In this context, the only legislative instrument amended so far is the Local Content Law. This law strengthens the informational aspect of accountability by requiring that oil companies submit a local content plan to the PC for approval, before any activities can be undertaken. The PC can thus monitor whether regulations are upheld. This bolsters the answerability aspect of accountability in regard to local content regulations (dimension 5 of accountability). The local content law also enhances the enforcement aspect of accountability by providing for fiscal penalties or imprisonment where rules and regulations are violated (dimension 6 of accountability). However, there is concern that the PC's role as enforcer is somewhat watered down through the Local Content Law, since the minister has the power to change the requirements of local content participation. Evidence suggests that this has been done in the case of two oil contracts after the passing of the Local Content Law. Therefore, the PC's role as enforcer may be impeded by ministerial discretion in the area of local content, in both formal and real terms (outcome 3 in table 3.4).

The Petroleum Commission Act may also constrain the PC's role as an enforcer of accountability, since a person aggrieved by the decisions of the PC can appeal to the Ministry of Energy and Petroleum who has the power to overrule the decision. This may create leeway for political interests to become involved in matters of technical regulation. The empirical material does not demonstrate that this discretionary power has been employed.

The PC has also implemented preliminary monitoring and evaluation systems for their areas of regulation. Companies' operations are monitored through their quarterly self-reporting to the PC as well as inspections of operating facilities, making them *answerable* to the PC. Based on this information gathering, the PC may uncover regulatory violations. According to the PC, two companies had their operations halted last year due to non-compliance with safety standards. This illustrates that the *enforcement* aspect has been functional. The answerability aspect is further

strengthened by PC's requirement to establish an annual report on all petroleum resources and activities in Ghana.

Drafting subsidiary legislation is a central aspect of the institution cooperation between the PC and the NPD. Thus, it is an important means for OfD to influence and possibly advance the PC's role of holding oil companies accountable. How these mechanisms take shape in subsequent legislation remains to be seen.

Table 7.6 Does the Petroleum Commission hold oil companies accountable?

Dimensions		Outcome
Answerability	(5) The agency obliges the oil companies to explain and inform about their conduct	<p>High: the Local Content Law requires that oil companies submit a local content plan to the PC for approval (<i>high formal answerability</i>)</p> <p>Preliminary monitoring and evaluation systems are in place but legislation for remaining areas of regulation are not yet passed</p>
	(6) The agency has the means to impose sanctions on the oil companies when they have violated their duties	<p>Low: The local content law provide for penalties for non-compliance with Local Content Regulations. However, the MoEP may overrule the PC's decisions regarding penalties (<i>impediment towards the PC's role as enforcer of accountability</i>)</p> <p>Low: The Local Content Law allows the MoEP to change the requirements of local content participation (<i>impediment towards the PC's role as enforcer of accountability</i>)</p>

7.4 Explanatory analysis

Research question 4 asked to what extent the policy transfer framework may explain outcomes in the establishment of the Ghanaian Petroleum Commission. In this section I will apply the concepts introduced in the policy transfer framework, to identify empirical relationships between the influences of relevant actors and contextual

factors on the selected outcomes identified above (cf. sections 7.1-3). Further, I will assess the hypotheses formulated in the (extended) policy transfer framework. By doing so I will assess the usefulness of the policy transfer framework, thus addressing research question 4. Since this study is not a full-fledged evaluation, it does not wholly reveal which mechanisms that may have caused the various outcomes. As the following analysis will show, the policy transfer framework offers heuristic value in identifying empirical relationships in the data.

Actors involved in reform

The first part of the explanatory framework focuses on whether the transfer process is voluntary or coerced, and which actors are involved in the transfer. It was argued that the types of actors involved may affect whether the process is voluntary or coerced. The discussion will therefore focus on which actors influenced the certain outcomes of the reform, and whether the processes appear to have been voluntary or coerced. In this section I will place the main focus on the following empirical outcomes: the establishment of an independent regulatory institution (dimension 1 of independence) and representation on the board of the commission (dimension 9 of independence) I also discuss how the policy transfer process has affected the Petroleum Commission's ability to keep the oil companies accountable (dimensions 5 and 6 of accountability). Lastly, I assess whether *hypothesis 1* and *hypothesis 2* proposed in section 3.4 are corroborated by the evidence.

The empirical review in chapters 5 and 6 identified relevant actors in the policy transfer processes to include: Ghanaian government officials and politicians, GNPC officials, international petroleum experts, the Norwegian government represented through OfD, the World Bank, bilateral donors and civil society groups (eventually consolidated as a national Civil Society Platform on Oil and Gas). There will likely be other actors involved who have not been included by the empirical material.

Regulatory reform was put on the agenda since shortly after oil was discovered in 2007. The issue was raised in a phone call between Kofi Annan and Norwegian Minister of International Development, Erik Solheim as early as October 2007. Annan expressed that "setting in place the right regulatory mechanisms" would be an essential part of the cooperation (see section 5.2). Regulations were also mentioned in the Memorandum of Understanding, which was the initial statement of intent for the

Ghana-Norway cooperation. This document stated that central aims of the cooperation would be a revision of the petroleum law of 1983 (the GNPC law) and development of regulations to the law. This may be interpreted as an aim of developing regulations for the national oil company GNPC to oversee, i.e. holding on to the model where regulations are consolidated within the national oil company. The fact that this consolidated model was included in the mutually agreed memorandum of understanding indicates that Norway did not attempt to coerce the model of an independent regulator on the Ghanaian government. The leader of the Technical Committee on Oil and Gas emphasized that the government was given great opportunity to influence the content of the initial memorandum of understanding. This contributes to the impression of a low degree of coercion in the relationship between the Norwegian and Ghanaian government.

The issue of regulation was also discussed at the National forum in February-March 2008. According to Gary (2009) there was a near consensus among the international petroleum experts that regulatory and commercial functions within the petroleum industry should be separated. On the other hand, GNPC had argued for a model where commercial and regulatory roles would remain consolidated.

In his framework, Schedler identifies four sets of agents influencing institutional reform. They represent four modes of change that work in conjunction. Schedler sees institutional reform as a dichotomous conflict between reformers and their opponents. He claims that the trigger for reform may come from one side, as somebody “has to kick the status quo from its point of equilibrium” (Schedler 1999a, 346). Change may occur when equilibriums are disturbed by critical junctures.

A critical juncture for Ghana’s regulatory reform was when the government presented a new Petroleum Exploration and Production Bill in the summer of 2010, to replace the one from 1984. This was part of the process of invigorating the petroleum laws established under the Rawlings regime during the 1980s. In the new bill, the Ministry of Energy was suggested to be the regulator of Ghana’s petroleum sector. To describe Ghana’s reform process in Schedler’s terms, it thus appears that “actors from above”, i.e. the cabinet, initially had their preferences tilted towards maintaining the status quo. The proposed new Petroleum Exploration and Production Bill revealed government’s preference towards consolidating regulatory responsibility within the

ministry. Government representatives had also argued for a consolidated model earlier (cf. section 6.1). Although various actors had promoted regulatory reform during the overall policy transfer process, the reactions to the new Petroleum Exploration and Production Bill became the trigger for institutional reform (a critical juncture). The bill was refuted by Parliament. Under influence and support from civil society, Parliament argued that the bill was inconsistent with article 269 of the constitution, which states that natural resources should be regulated by an independent commission. An independent commission for the regulation of petroleum resources was a constitutional demand.

After the first Petroleum Exploration and Production Bill was rejected, Norway was asked to assist in the drafting of a bill. Civil society was able to give input in the legislative process, promoting the model of a separate regulator. A near consensus was reached around the proposal for an independent regulatory commission. Already in December 2010, government presented a Petroleum Commission Bill before Parliament. This was an important first step towards ensuring the first dimension of regulatory independence: creating a separate institutional entity. In the first Petroleum Commission Bill, GNPC were given representation on the board. According to Gyimah-Boadi and Prempeh (2012), Parliament rejected this provision, influenced by the Civil Society Platform on Oil and Gas' advocacy. Parliament approved the second Petroleum Commission Bill in June 2011. Based on this, it appears that the decision to reform was mainly influenced by actors "from above" (Parliament) and "from below" (civil society).

The empirical material does not explicitly reveal which influence actors from outside, i.e. donors, may have had on the decision to reform. In the policy transfer framework, "actors from outside" were argued to regularly have a coercive influence when involved in a reform process. Dolowitz and Marsh claim that processes of policy transfer often will involve both coercive and voluntary elements. The evolution of the regulatory reform in Ghana appears to be an example of this. The collaboration between Ghanaian civil society and external donors make it hard to differentiate between the coercive and voluntary elements in the reform process. Endogenous and exogenous influences have been somewhat intertwined. The empirical analysis showed that the World Bank collaborated with the Civil Society Platform on Oil and

Gas in the period when decisions regarding the PC were being reached. The World Bank supported the Civil Society Platform on Oil and Gas by funding their stakeholder conferences and by including their viewpoints in conditionalities for releasing their annual budget support to the government. A World Bank official said that engagement with civil society ensured more legitimacy for the Bank's demands towards to government. Disbursements of funds provided by the World Bank Oil and Gas Capacity Building Project (the technical assistance loan) were partly conditioned on "satisfactory establishment of a future petroleum regulatory body". This is an example of what in section 2.1 was called conditionality as "paternalism", where aid is conditional on being spent on particular activities (Collier 1997). One of the World Bank's trigger actions for budget support in 2012 was that a proposal for the establishment of a petroleum regulatory authority was presented before cabinet during 2011. This may be seen as conditionality through "inducement", where donors offer support if the recipient authorities agree to introduce a set of policies (cf. section 2.1). When the World Bank announced their triggers in 2011, the legislating process of the Petroleum Commission Bill was already under way. The demand can thus be interpreted to be aimed at influencing the physical establishment of the institution. A World Bank official explained that this demand was made to support the general opinion on regulatory policy in Ghana. Though domestic pressures appear to most influential, the World Bank did have a push effect in the decision to reform, introducing a coercive element in the policy transfer process.

Norway aided the legislative work in drafting the Petroleum Commission Bill. However, evidence suggests that OfD did not put pressure on the Ghanaian government to establish the institution in the first place. Norway had expressed to their Ghanaian counterparts that the tripartite separation of roles was one of the reasons why things had worked well in Norway. However, an OfD official emphasized that the ideas of a Petroleum Commission was essentially Ghanaian. As mentioned, the Memorandum of Understanding signed between Norway and Ghana in 2008, did not mention anything about an independent regulator, but aimed at developing regulations to the GNPC law (i.e. remaining the consolidated model). The Memorandum of Understanding also stated that Norway should make inputs into the policy making process in Ghana "when specifically asked". This further strengthens

the image of a low degree of coercion regarding the regulatory reform on behalf of Norway.

The policy transfer relationship between the Norwegian and Ghanaian governments illustrates the vulnerability of a transfer process. It shows how a transfer process may depend heavily on trust relations, and be vulnerable to changes in political leadership. Simultaneously with Ghana's change of government in January 2009, communication between Norwegian and Ghanaian government officials faded. Evidence suggests this was due to the new governments' lack of trust in deals negotiated under the previous NPP government. The OfD cooperation was however reconfirmed after some months. In December 2010 the Norwegian Ministry of Petroleum and Energy and the Ghanaian Ministry of Energy eventually signed a 5-year cooperation agreement, formally establishing OfD assistance within petroleum resource management. The institutional cooperation between the PC and NPD was eventually to be included in this agreement. The institutional cooperation between the Norwegian Petroleum Directorate and the Ghanaian Petroleum Commission became an important component in Ghana's policy transfer process. This cooperation also testifies to a high level of voluntariness in the transfer process between Norway and Ghana. Respondents from OfD emphasized that it was important that the program document, on which the agreement is based, was developed and owned by the receiver. OfD would review the program document and give feedback with suggestions for alternations, but in principle it should be developed by Ghana to reflect their preferences. This resembles with a "jointly agreed and binding development contract", discussed in chapter 2 as typical for Norad's development programs from the 1990s onwards. The Norwegian government has traditionally emphasized that aid should be recipient oriented. Both parties should fully share the aims of the cooperation and aid should not be used for interference in the policy of recipient countries. However, there is some stringency in the fact that the goals have to be mutually agreed. The level of goal attainment during the 5-year cooperation period forms the basis for an evaluation of whether the cooperation will be extended to a consecutive period. This ensures a level of commitment and reduces the risk of policy reversal. This constitutes a weak coercive element since it somewhat limits the governments running options in a 5-year period. But the cooperation may be considered all over voluntary since the goals are largely developed by the recipient.

Essential for the policy transfer process, is the NPDs assistance in developing subsidiary laws for their various areas the PC's of regulation. In this way, OfD directly influences the PC's ability to keep oil companies accountable to the government and the populace. Based on my data, this is where OfD has had the most explicit influence on the outcomes identified in this analysis.¹⁴⁶ The regulations were claimed to be formed closely after the Norwegian model of regulation, but by learning not by coercion. These regulations allow the PC both to monitor oil companies on various areas of regulation, and to provide punishment where non-compliance is discovered. In this way, OfD positively contributes to strengthening both the informational and enforcement dimensions of accountability between oil companies and the government (dimensions 5 and 6 of accountability).

Leira et. al argue that Norway's positive image on the international arena presents an image of a model that can be copied by other countries. This resonates well with the view of respondents who referred to Norway as the best model to draw lessons from. Advisors to both the NPP and the NDC government emphasized that Norway was a preferred partner due to a lack of concern about double agendas as well as limited strings and conditions attached to the assistance. One may speculate that Norway's role model image fuels the demand for the Oil for Development program, which is currently is the most in-demand Norwegian aid program internationally.

The above discussion gives reason to problematize the assumption that donor influence necessarily leads to coercive transfer. Hypothesis 1 proposes that "If donors are the prime mover of reform (through applying conditionality), high autonomy along dimension 1, high accountability along dimension 1, and low independence along dimension 2, 3, 8, 9 and 10 will be the result" (cf. table 3.1). The reform appears to be less donor-induced than what was assumed in section 3.4, and from the onset. This rejects *hypothesis 1* which assumed that donors were the prime movers of reform. The role of donors does represent a coercive element, but the strongest influences on the decision to reform appear to be domestic, represented by actors from Parliament and civil society.

¹⁴⁶ As noted in the methodological chapter, other types of data might reveal other empirical relationships. For example, I do not know to what extent the Norwegian experience is reflected in the Petroleum Commission Act, as a result of the consultancy from Norway. This is a challenge regarding the reliability of the study.

Hypothesis 2 of the explanatory framework proposed that “If donors and CSOs coalesce in promoting regulatory reform, there will be a greater chance of independence and accountability along all dimensions of the concepts”. This expectation proved to have some validity, suggesting that SCOs and donors could form successful coalitions to promote change. The Civil Society Platform on Oil and Gas cooperated with the World Bank to develop political conditionalities towards the Ghanaian government. As discussed in section 6.1, this had great impact on some aspects of the general reform processes in Ghana’s petroleum sector.

From where are lessons drawn

The third transfer variable essentially concerns which impact domestic contextual factors may have on the outcome of reform. This draws on the insight that policy transfer does not necessarily happen only on the international dimension, but also within the national context. Domestic structures and traditions will limit the range of options available in a transfer process. The empirical analysis revealed that commissions are an integral part of Ghanaian public administration. A number of commissions are in place, regulating the utilization of natural resources and other sectors in Ghana. Placing regulatory responsibility with independent commissions can be interpreted as a constitutional demand in Ghana. This factor proved decisive for the establishment of an independent regulator for the petroleum sector in Ghana, as made clear by the above section.

The discussion in section 2 of the explanatory framework evolved around which outcomes could be expected, taking into account that neo-patrimonial features are common in African politics. Based on this assumption I formulated *hypothesis 3*, which proposed that neo-patrimonial norms in Ghana’s politics might limit independence with regards to appointment of board members and the agency head, HR management and ministerial interventions in agency decisions. Ministerial administrative accountability was expected to be strong, to ensure strong executive control. To test the theoretical expectations against the empirical evidence, I will address the five outcomes mentioned in hypothesis 3.

From the explanatory framework it was expected that the PC’s independence regarding appointments to the board (including the Chief Executive) and HR-management would be low due to an assumption of prevailing neo-patrimonial norms

and practices. In Ghana, the president is constitutionally vested with the power to appoint members to boards of all public entities. The Civil Society Platform on Oil and Gas and other critics shared concerns that this practice would fuel political patronage and place the PC's independence in doubt. In neo-patrimonial systems, executive appointments to public boards may seriously impede on agency independence, because direct executive appointment could open up for political patronage. In such systems, top-positions in the public sector may easily become filled with persons selected based on political connections, while by norm it should be technocratic merit. However, as the discussion in 7.1 made evident, the PC's independence along these three dimensions was relatively high. While patrimony appeared to play a role in board appointments and HR-management of other public agencies, the PC seemed to be spared of this. The assumed influence of neo-patrimonial norms was not irrelevant for the political context, but it proved less pertinent for the PC. Hypothesis 3 is thus weakened with regards to these three dimensions of independence. This study does not reveal whether the policy transfer processes, i.e. the PC's cooperation with OfD and the World Bank, have affected these dimensions of independence positively vis-à-vis other agencies.

The analysis in section 7.1 suggested that the most significant impediment towards the PC's independence was the ministerial interference in the PC's decisional powers (cf. dimension 3 of independence). This was expected from hypothesis 3. The new Petroleum Exploration and Production Bill contain a number of clauses where decisions should be taken by the minister in consultation with the PC. This study does not include a thorough analysis of the Petroleum Exploration and Production Bill. However, a respondent from Africa Centre for Energy Policy (ACEP) warned that the Petroleum Commission would become an appendix of the Ministry if the bill was passed in its current form. ACEP had sent analyses to the Ministry of Energy and Petroleum advocating that the scope for ministerial discretion on areas under the PC's responsibility be reduced. The analysis in section 7.1 also showed that the Local Content Law allows for ministerial intervention in the decisions of the PC, for example by giving the minister of energy and petroleum power to overrule decisions where the PC has handed penalties to oil companies for rule violation. The fact that this fits with hypothesis 3, cannot confirm a causal relationship. The empirical data does not confirm that Ghana's politics can be regarded as neo-patrimonial, even

though some authors have claimed so (Dzorgbo 2001). Section 7.2 established that the PC's administrative accountability towards its sector ministry was strong, something that also fits with the hypothesis.

To summarize this section, the theoretically motivated expectations in hypothesis 3 proved accurate on the two dimensions discussed in the last paragraph: high administrative accountability and low independence due to significant scope for ministerial interventions in agency decisions. This can hardly confirm a causal effect of neo-patrimonial norms on this dimension. It may be a spurious relationship rather than a causal one. The expectations did not prove very accurate for the remaining dimensions.

In answer to *research question 4*, I conclude on basis of the above analysis that the policy transfer framework did have *heuristic value* in explaining outcomes in the establishment of the Ghanaian Petroleum Commission. Employing the conceptual categories from the framework allowed for a systematic entry to the empirical material.

In the first section we saw that external policy transfer processes were not detrimental for the establishment of the Ghanaian Petroleum Commission (dimension 1 of institutional independence). A decisive factor in the establishment of the institution proved to be Parliament's enforcement of "constitutional accountability". In section 3.2 it was argued that constitutional accountability entails monitoring whether legislative acts correspond with constitutional rules. As seen, Parliament argued that the first Petroleum Commission Bill was unconstitutional, as the constitution of Ghana demands separate institutions for the regulation of natural resources. Further, formal institutional independence with regards to appointment of agency board and Chief Executive was also determined by the constitution.

In the policy transfer framework it was argued that "actors from outside" often would coerce policies on the recipient. We saw that regulatory policy was discussed between the Norwegian and the Ghanaian government at an early stage, but the Norwegian government did not at any point enforce the model of an independent regulator. This is in line with Norwegian aid policy which historically has been highly recipient-oriented. The World Bank did however pose a coercive influence by employing aid

disbursement conditionalities related to petroleum regulatory reform. Empirically we saw that OfD has had a marked positive influence on the Petroleum Commission's ability to keep the oil companies accountable (dimensions 5 and 6 of accountability). However, the analysis does not reveal which mechanisms that may have caused the various outcomes, and it has been difficult to differentiate between voluntary and coercive elements in the reform process.

8 Conclusion

In this thesis I have analyzed a regulatory reform in Ghana's petroleum sector by employing qualitative data collected during a fieldwork. More specifically, I have studied the establishment of the Ghanaian Petroleum Commission, which came into being in late 2011. The regulatory reform processes have been influenced by a multitude of domestic and external actors and structures. Shortly after Ghana's discovery of oil in June 2007, a number of "policy transfer" processes were set in motion. To comprehend how various influences have affected regulatory reform outcomes, I have utilized "the policy transfer framework" developed by Dolowitz and Marsh (2000). The thesis has sought to address four research questions.

The first research question asked: To what extent does the Ghanaian Petroleum Commission enjoy institutional independence? I argued that the Petroleum Commissions' independence from central government was a partial precondition for the effective regulation of the petroleum industry. Institutional independence is therefore an important quality to avoid the detrimental effects of the so-called "resource curse". Critics have contended that the practice of presidential appointments to the Petroleum Commission's board may leave its independence in doubt (Gyimah-Boadi and Kwasi Prempeh 2012, 100). However, the analysis in this thesis argued that institutional independence is high in regard to appointments to the governing board and of the Chief Executive. Interview data and documents studied revealed that the Petroleum Commission appears to be more insulated from political patronage in board appointments than comparable public agencies in Ghana. The analysis also showed that the Commission's financial independence from central government is high.

I argued that the greatest impediment towards the Petroleum Commission's institutional independence was linked to its legal independence. The Petroleum Commission Act, which established the Commission, delegates decision-making powers related to management and regulation of the petroleum sector to the Commission's board and Chief Executive. However, the Commission's independence is somewhat constrained by subsequent legislations, namely the Local Content Law

and the Petroleum Exploration and Production Bill (if the latter becomes passed by Parliament). As the analysis revealed, these legislative documents open up for increased ministerial intervention in certain areas under the Commission's decisional authority. According to how institutional independence is operationalized in this study, such ministerial discretion in matters of technical regulation reduces the Commission's independence. Policy principals' ability to intervene in, and overrule, decisions that according to law are delegated to an independent regulatory institution may pose impediments to effective regulation (Minogue and Cariño 2006, 5). Regulatory reforms are commonly pursued precisely with an aim of limiting ministerial authority over certain parts of public administration (Christensen 2006, 114).

Motivated by the salience of "good governance" in the development discourse, and its corresponding emphasis on accountability, research questions 2 and 3 addressed issues of accountability. The vast scholarly literature on political regulation focuses on the inherent trade-off between institutional independence and accountability. Without proper mechanisms of accountability, regulators may become dangerously independent from the political process (Levi-Faur 2011, 370). Based on this, *the second research question* asked: To what extent is the Ghanaian Petroleum Commission held accountable? The analysis concluded that sound mechanisms are in place to ensure the Commission's vertical, administrative accountability towards its sector ministry as well as horizontal accountability towards its associated parliamentary committee. In addition, the Petroleum Commission is held financially accountable by the Ghana Auditing Service.

Furthermore, it was argued that regulatory reform should not only ensure mechanisms that keep government institutions accountable. Of equal or greater importance are mechanisms which hold operators in the petroleum industry accountable to the populace. Hence, *the third research question* asked: To what extent does the Ghanaian Petroleum Commission keep operators in the petroleum industry accountable? Once subsidiary regulatory legislation is developed and passed into law, the Commission should be able to carry out its role as an enforcer of accountability towards operators in the petroleum industry. The Norwegian Oil for Development program provides a positive influence in the respect, by assisting the Petroleum

Commission in drafting its regulations. A few months after Ghana discovered oil in commercial quantities, the Ghanaian government contacted the Norwegian government, requesting assistance through the Oil for Development program. The Ghanaian government expressed a wish to draw lessons from the Norwegian experience, in terms of managing its petroleum resources in a sustainable manner. The regulations developed for the Petroleum Commission are to a large extent influenced by the Norwegian experience in petroleum regulation. This is a clear example of how policy transfer processes may contribute positively to the strengthening of accountability in a recipient country.

Acknowledging the role of “policy transfer” in Ghana’s reform process, the *fourth and final research question* asked: To what extent does the policy transfer framework explain outcomes in the establishment of the Ghanaian Petroleum Commission? The scholarly literature on policy transfer deals with processes whereby knowledge about policies, institutions and ideas in one political setting is used to develop policies, institutions and ideas in another setting (Dolowitz and Marsh 2000, 5). In answer to research question 4, the policy transfer framework did not provide for *causal* explanations of reform outcomes. Nevertheless, the framework offered a helpful heuristic to identify empirical relationships in the data material. The conceptual categories offered by the framework proved useful for identifying the influence of various actors on relevant outcomes, and whether this influence was of a voluntary or coerced nature. One example already noted is the Oil for Development program’s positive contribution to the development of accountability in the petroleum industry.

Moreover, the overall regulatory reform process can be viewed as being influenced by a set of different policy transfer processes, working alongside each other. An empirical analysis showed that policy transfer processes were influential in facilitating an informed debate about petroleum regulation, unveiling various experiences to draw positive and negative lessons from. The Ghanaian government engaged early in “lesson drawing”, defined by Rose (1993) as an activity where actors voluntarily search for existing solutions in time and space to develop policy. Evans and Davies (1999) claim it is typical for a policy transfer process that the “recipient” agent organizes forums where ideas can be exchanged with members of the same epistemic community. Such arenas can facilitate the development of consensual

knowledge regarding policy development. Shortly after oil was discovered, the presidential Technical Committee on Oil and Gas convened a large national forum to gain insights from other countries' positive and negative experiences with petroleum governance. A gathering of stakeholders, donors, government officials and international petroleum experts shared their views on the development of the sector. Civil society organizations (CSOs) also engaged in lesson drawing activities in the early developmental phases of petroleum policies, which eventually contributed to the consolidation of the Civil Society Platform on Oil and Gas. The platform would direct significant advocacy towards the government to influence developments in petroleum governance. Both the national forum and the civil society preparatory meeting were partly funded by the World Bank and other donors. This shows how external actors can facilitate the exchange of ideas and experience in a transfer process.

In closing, I argue that the policy transfer aspect should not be exaggerated in the case of Ghana's regulatory reform. Despite the significant donor involvement, actors and structures domestic to the political system appear to have been more influential than external "policy transfer" on relevant outcomes in the reform. For example, policy transfer processes were not determinative in establishing the Petroleum Commission in the first place. The analysis suggested that civil society organizations, domestic political processes and constitutional requirements had the greatest impact on the relevant outcomes studies in this thesis. Policy transfer "from abroad" proved most influential with respect to the technical assistance and capital support directed towards the Petroleum Commission from the Oil for Development program and the World Bank respectively.

Furthermore, as argued in chapter 4 the findings in this thesis cannot readily be generalized to a "population" of similar cases. However, these findings may have transferability to similar instances of regulatory reforms in developing countries. Findings in this case study may contribute to the development of hypotheses about similar reform processes. The thesis thus aims to enter into dialogue with similar scholarly contributions on institutional change and more specifically regulatory reform in developing countries, advanced by among others Minogue and Carino (2006).

Further research on Ghana's petroleum regulatory reform is recommended, as the reform process is still ongoing. The mechanisms that will allow the Petroleum Commission to properly enforce accountability towards operators in the petroleum sector are still unfolding. Likewise, outcomes regarding the Commission's legal institutional independence may be affected by subsequent legislation currently being developed. Given its potential impact on the Petroleum Commission's independence, I recommend a revisited analysis of the Petroleum Exploration and Production Bill, if and when it is passed into law. Concerning future theoretical developments, I support Evans and Davies (1999, 3) claim that Dolowitz and Marsh' policy transfer framework should engage in theoretical and methodological pluralism and integration in order to make stronger knowledge claims. The frameworks' conceptual categories have proved useful, but its explanatory power is weak.

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Appendix 1 List of respondents

No	Date	Name	Place	Role
1	13.01.2014	Arne Olsen	The Royal Norwegian Embassy in Accra	OfD secretariat
2	17.01.2014	Steve Manteaw	Integrated Social Development Centre (Isodec), Accra	Chair of The Civil Society Platform on Oil and Gas
3	17.01.2014	Frank Bannor	Integrated Social Development Centre (Isodec) , Accra	Programs officer, Publish What You Pay, Ghana
4	17.01.2014	Cisca Sarfo-Addai	Integrated Social Development Centre (Isodec) , Accra	Programs Officer, Civil Society Platform on Oil and Gas
5	20.01.2014	Mohammed Amin Adam	Africa Centre for Energy Policy (ACEP) , Accra	Director of ACEP
6	20.01.2014	Fredrick Asiamah	Centre for Public Interest Law, Accra	President, Ghana Network of Extractive Industries Journalism
7	22.01.2014	Kwaku Appiah-Adu	Centre for Advanced Strategic Analysis (CASA) , Accra	Professor of Business Management at Central University, Accra ¹⁴⁷
8	29.01.2014	PC official 1	Ghana Petroleum Commission, Accra	Anonymous
9	29.01.2014	Richard Afenu	Ghana Minerals Commission, Accra	Manager, Sectoral Policy and Planning
10	30.01.2014	Petter Stigseth	The Royal Norwegian Embassy in Accra	Director of the OfD Secretariat
11	31.01.2014	PC official 2	Ghana Petroleum Commission, Accra	Anonymous
12	03.02.2014	Government official	Ghana Petroleum Commission, Accra	Anonymous
13	03.02.2014	World Bank official 1	The World Bank, Accra	Anonymous
14	04.02.2014	World Bank official 2	The World Bank, Accra	Anonymous
15	04.02.2014	Harriet Solheim	The Royal Norwegian Embassy in Accra	Counselor, Norwegian Embassy in Accra
16	06.02.2014	PC official 3	Ghana Petroleum Commission, Accra	Anonymous
17	06.02.2014	Representative of MoEP	Ghana's Ministry of Energy and Petroleum, Accra	Anonymous

¹⁴⁷ Previously: Head of the Policy Coordination, Monitoring and Evaluation Unit at the Office of the President and Chairman of the Oil and Gas Technical Committee

Appendix 2 Introductory letter to respondents



UiO : University of Oslo

Request for your participation in a research project:

Aid and Petroleum Governance

To [whom it may concern]

I hereby invite you to participate as a respondent in my ongoing research project about institutional developments within Ghana's petroleum governance sector. The topic is seen within the context of the Norwegian aid program "Oil for development" (OfD). An overarching theme of the research is to explore how different institutional mechanisms can work against the so-called "resource curse". To gain insight about the topic I aim to interview various actors from the Ghanaian government and civil society among others. Due to your capacity as [...] it would be very valuable to hear your perspectives regarding [...]. The questions would be regarding [...].

The participation is voluntary. If you agree to participate as an interviewee you can still withdraw your participation at any time without any particular reason. The interview would be conducted as a semi structured conversation with duration of approximately one hour. If you approve so, the conversation will be taped. If you choose to withdraw as a respondent the collected materials will be deleted.

The research is part of my masters' degree and thesis at the institute for Political Science at the University of Oslo. The data collected will be treated in confidentiality and interviewees referred to anonymously in the final thesis. All data will be deleted after the end of the project which is estimated to be 2018. The research is conducted independent of the Norwegian government and they will not access the data.

If you have questions or remarks please contact me at else.rafoss@gmail.com or my supervisor Jostein Askim at jostein.askim@stv.uio.no.

The project is approved and registered at the Norwegian Social Science Data Services (NSD).

Sincerely yours

Else Margrete Rafoss

Appendix 3 Interview guides

Included in all interview guides:

Opening phrases [Repetition of information provided in the informational letter]

- Present myself and the project briefly.
- Ask if the conversation can be taped. Clarify that the data will be treated anonymously and deleted after the end of the project.
- Clarify that the project is independent of the Norwegian government at that they will not access the data.

Interview guide 1: Petroleum Commission/Government officials

General

- Role/background
- What is your role/position in the Petroleum Commission? (Education, previous workplace?)
- What is the main role of the Petroleum Commission?

Policy transfer

Establishment of the Petroleum Commission and experience and knowledge transfer

- What would you say were the main motivations/justifications to set up a Petroleum Commission in Ghana? Probes: To curb political interests? GNPC not being a player and a judge? Certain actors promoting it? What has characterized the policy discourse?
- From where have lessons/experiences about the institutional structure and functions of the Petroleum Commission been drawn? Probe: Locally/internationally/"best practice"?
- Has the Norwegian experience influenced the structure and functions of the PC? (How?)
- Are there similarities with the Petroleum Commission and the Norwegian Petroleum Directorate? (Main differences?)
- What type of training has been in focus the twinning arrangement? Probes: Has there been a focus on the separation of functions between three institutions? Roles? Focus on power relations or merely technical issues?

Institutional Independence

- Which types of work is still being done by the GNPC? Probes: The new chief executive is from the GNPC? The Petroleum Commission act states "6 months after passing the Act, the GNPC should no longer serve any advisory function" – (why) is it still?
- Can you describe the role the Petroleum Commission has played in the processing of (oil) contracts so far? Probe: The GNPC has been doing the work – but has it collaborated with the PC?

- The Petroleum Exploration and Production Bill which is being passed. Here I see that several decisions of the Petroleum Commission is supposed to be taken in consultation with the minister – for example the management of the local content fund. Do you see this as an issue when it comes to your regulatory independence?
- I read about The TEN project; heard that the Petroleum Commission did an evaluation of the Field Development plans and objected to some issues. The minister approved the plan without taking these into consideration. Can you describe this process for me? (What happened?)
- You've changed office buildings three times is that right? Has this been connected to lack of funds? Could you describe to me that way the Commission is funded?
- President appoints board members – do these have political background or?

Accountability

- *Enforcement:* You should make sure regulations are followed – what means does the Petroleum Commission have to make sure of that?
- *Answerability:* Have the annual public reports on petroleum resources and activities been produced?
- The Parliamentary Committee on mining and energy is supposed to keep scrutiny with the Petroleum Commission. Is that done?
- Does The Auditor General perform oversight?

Closure

- Organizational map available?
- Thank you very much for your time.
- Do you have knowledge of other persons that would have insights about these issues that I should speak to?
- Would it be okay that I contact you again via phone or e-mail if I have follow-up questions or questions of clarification regarding this interview?

Interview guide 2: Civil Society Platform on Oil and Gas & Africa Centre for Energy Policy

- Would you please describe your role/background?

The Civil Society Sector

- Could you please describe the civil society sector on oil and gas in Ghana? How it is structured and how it has emerged? Probe: How is competence built? Experiences from the mining sector?
- What kind of work does your organization do?
- I know the Norwegian aid agents have a goal of contributing to the strengthening of the civil society sector in Ghana. Have you been exposed to any external influence in terms of funding or training?

Policy transfer

- Is the so-called Norwegian oil experience talked about in the civil society discourse?

- Has the Norwegian experience had any influence in the development of the petroleum governance sector/its institutions? How? Certain traits that have been influential? Other donors?
- Have important lessons been drawn from elsewhere? Locally?
- Is there a tradition for independent regulators in Ghana?
- Factors influencing the decision to establish the Petroleum Commission in Ghana?
- Discussions among civil society on the accountability of the Petroleum Commission?

Participation

- (How) Is the Civil Society consulted when it comes to important political decisions?
- Do you perceive that your points of view are taken into consideration? Achievements?
- I was told that there is a seat for civil society persons on the board of the Petroleum Commission – is that so? (Doesn't say so in the Act – says 1 person from EPA). How was this decision reached?
- Do board members have connections to political parties/interests groups?

Transparency

- How much information is available about the public decisions in oil/gas governance? Awarding of contracts? Appointments to top positions?

Accountability

- Is accountability a term used in the policy discourse? Important?
- How is “accountability” understood (or operationalized)?
- Does civil society strengthen accountability? How?
- Do you think the Petroleum Commission will become fully independent from GNPC?
- You have produced regular policy briefings – are these available?

Closure

- Is there anything you would like to add?
- Thank you very much for your time.
- Do you have knowledge of other persons that would have insights about these issues that I should speak to? Actors in civil Society? Journalists? Parliamentarians?
- Would it be okay that I contact you again via phone or e-mail if I have follow-up questions or questions of clarification regarding this interview?

Interview guide 3: OfD officials (in Norwegian)

- Kan du beskrive din rolle eller stilling i OfU?
- Kan du beskrive rollen til Ofu sekretariatet/organiseringen av Ofu-programmet?

Ofu og institusjonsbygging

- Når man snakker om institusjonsbygging i Ofu; Hva legges i begrepet?
- Hvor stor andel av samarbeidet vil du anslå har vært fokusert på tekniske assistanse og hvor mye på institusjonsbygging?

- Ofu-programmet er etterspørselsbasert: Hvordan gjør det seg gjeldende når det gjelder institusjonsbyggingen? Norge som tar initiativ eller motsatt angående dette?
- Ghana kommer godt ut av Scanteam-evalueringen. Spesielt når det gjelder institusjonsbygging og good governance. Har du en formening om hvorfor disse aspektene tilsynelatende har lyktes bedre i Ghana enn andre samarbeidsland?
- Hvordan har assistansen til GNPC vært gjennomført?
- Har det vært spesielle utfordringer knyttet til institusjonsbyggingen (spesielt med tanke på Petroleumskommisjonen)?
- Opplevd noen kontroverser i samarbeidet (korrupsjon)?

Sivilsamfunn/media

- En av målsettingene er også å satse på styrking av sivilsamfunnsorganisasjoner. Hvordan har dette vært gjort i Ghana?
- Er det visse organisasjoner det ville være interessant for meg å snakke med?
- Har media vært opptatt av utviklingen av styringen av sektoren? Visse aktører?

Accountability

- Fokuset på good governance forstås som å styrke accountability og transparency. Hva har dette innebåret i Ghana?
- Et viktig mål for OfU er ”policy makers and regulatory authorities are held accountable” I 2012-rapporten nevnes ikke Ghana – hva har man oppnådd når det gjelder å styrke accountability i Ghana?
- Hvordan holdes petroleumskommisjonen ansvarlig? Hvor stort innsyn har man i beslutningstakingen?

Generelt om Petroleumskommisjonen

- Kan du kort beskrive Petroleumskommisjonens rolle (lisenser, konsesjoner)?
- Etterspørselsbasert bistand: Reguleringsrammeverket – Ghana som etterspurte eller Norge som foreslo?
- Hvilke erfaringer har Ofu med utskilling av regulatorfunksjonen i andre samarbeidsland?
- Er det viktige forskjeller mellom det norske Petroleumsdirektoratet og Petroleumskommisjonen i Ghana?

Institusjonell uavhengighet

- Funksjonene som nå ligger hos Petroleumskommisjonen lå jo tidligere under ministeriet, men i realiteten hos GNPC. Har dere inntrykk av at funksjonene er *reelt* overført så vel som *formelt*?
- Har det vært en overføring av personell fra GNPC til PC?
- Har dere samarbeidspersoner jeg kunne kontaktet i GNPC?

Interview guide 4: World Bank officials

- Background of respondent/role in the World Bank
- Can you describe the relationship between the “local” branches and Washington?
- What kind of assistance has the World Bank provided to Ghana’s government regarding oil and gas (public sector)?
- Which, if any, conditionalities have accompanied the assistance? “Triggers”?
- How would you describe your cooperation with the Norwegian government?

- How is the assistance from the Norwegian government viewed upon (any criticisms)?
- What involvement has the World Bank had in the implementation of the Petroleum Commission Act
- What involvement has the World Bank had in the development of the Petroleum Commission?
- What is your view on how the Petroleum Commission has functioned in these initial years? Probe: Certain challenges?
- How does the Parliamentary Committee on Mines and Energy keep scrutiny with the Petroleum Commission?
- What means does the World Bank employ to strengthen accountability and transparency in the petroleum sector?